INDEPENDENT REVIEW of the Criminal Courts

Overview

When justice sleeps, justice is cancelled.

Talmud 200 – 400 CE

Justice delayed is justice denied.

William E. Gladstone, 1868

To delay justice is injustice.

William Penn, 1682

Justice too long delayed is justice denied.

Martin Luther King, 1963

To no one will we sell, to no one will we deny, or delay right or justice.

Magna Carta, Clause 40, 1215

Overview from Sir Brian Leveson

The Problem

1. The Independent Review of the Criminal Courts was commissioned by the government because of the truly appalling backlogs that have developed in our criminal justice system. The picture is clear. Justice is being delayed and thus denied. To understand the scale and nature of the problems and then to seek to develop solutions has required detailed consideration of the evidence and the submissions which I have received. In turn, this has necessitated lengthy reviews. Part I covers nearly 400 pages and Part II is significantly longer. Only a few will have the time (or perhaps the inclination) to study both parts of the Review in depth. However, I encourage everyone – particularly those who have responsibility for considering legislation in this area – to do so. I here provide an overview which offers a summary of the complete story, in a standalone format.

2. It is beyond argument that even the investigation of criminal complaints and the commencement of prosecutions (let alone their progress through the courts) is delayed, in some cases by years. For many cases, progress through the system has slowed dramatically.[1] Since 2019, the open caseload in the Crown Court (representing the most serious cases) has more than doubled. As of September 2025, it was in the order of nearly 80,000 cases,[2] with trials in the most seriously affected courts being listed into 2030.[3] This is not a recent problem. It has been developing and worsening over many years.

1 For further detail, see The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part II Chapter 2 (Context).

2 Source: Criminal court statistics quarterly: July to September 2025 (Ministry of Justice (MoJ), December 2025).

3 Source: HM Courts & Tribunals Service (HMCTS), Unpublished Management Information.

The Causes

3. The causes are straightforward to identify and are described in the Problem Diagnosis (Part I, Chapter 2) which is the subject of elaboration in the Context (Part II, Chapter 2). The most significant is chronic underfunding at every step. What are euphemistically called 'resource constraints' led police numbers to be reduced (leading in turn to a decrease of work through the courts). Police numbers then increased to deal with greater challenges, but the effects are still felt as more recent recruits have diminished expertise in the investigation of crime. Prosecutions have then substantially increased. The Crown Prosecution Service is under pressure. For the defence, criminal legal aid has effectively been reduced and spending in this area has fallen. Criminal defence solicitors and barristers (who undertook strike action in relation to fees in 2022) are leaving criminal practice; some are seeking better remunerated areas of work. However, there is nothing more important to our democratic society than ensuring that our criminal justice system operates fairly, efficiently and effectively. Without an experienced legal workforce, it cannot do so. Courts, prisons and probation are also working under intense pressure with very limited capacity and decreasing efficiency.[4]

4. Chronic underfunding is the consequence of the fact that the money allocated to criminal justice has been reduced year after year. This is captured by the pithy observation of the Institute of Fiscal Studies that: 'The provision of justice is a smaller fraction of what government does now than it was in the past.' The result is that in 2025/26, real-term day-to-day spending by the MoJ is set to be 14% lower than in 2007/08.[5]

5. Money is not the only cause of the crisis. The increasing complexity of the system over recent decades is also a large contributor. Quite apart from the ever-developing reach and complexity of the criminal law itself, it also takes the form of improvements to procedural fairness. This includes the Police and Criminal Evidence Act 1984, the rules surrounding disclosure of unused material, special measures and changing rules as to the admissibility of evidence. All have been valuable additional protections and modifications to the conduct

4 See Chapter 2 (Context) and see the Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (MoJ, July 2025), Chapter 2 (Problem Diagnosis); Independent Review of the Criminal Courts: Part II (2026), Chapter 2 (Context).

5 Source: Justice spending in England and Wales (Institute for Fiscal Studies (IFS), February 2025).

of criminal trials, but each comes with a real cost in the time that trials take. In addition, further time is necessarily involved as a consequence of the developments in modern technology and the evidential complexity of deploying such material in court. This includes communications data (the meta data of mobile phone use) together with the vast amount of digital material that is now available, which has both to be analysed and then presented in so many investigations.[6]

6. Further, the types of case that fall to be tried in the courts have changed. Putting lengthy fraud and terrorism to one side, violence and sexual offences represent a higher proportion of the caseload. The consequence of all these developments is substantially increased trial lengths.[7]

7. Finally, as the number of cases entering the system has increased, because of the reduction in funding and the greater complexity, courts no longer have the resilience to cope. So the number of cases outstanding has risen. This increase has been aggravated by COVID-19 and (to a certain extent) by the strike action by the Criminal Bar. The Safer Streets Mission, the essential strategy to deal with violence against women and girls and the explosion of shop theft, will only further increase the volume of cases entering the criminal justice system.

8. At the same time, efficiency within the system has fallen as the growing prison population (and the increased remand population) puts further pressure on His Majesty's Prison and Probation Service (HMPPS) which is itself being subject to resource constraints.[8] This has created difficulties in the delivery of prisoners to court not least because of the number housed in prisons that are a considerable distance from the court at which they are being tried. This problem, together with the shortage of court personnel and advocates combine to push trial dates further into the future. This undoubtedly reduces the incentive for those prepared to admit their guilt to enter an early guilty plea. Some seek not only to put off the day of trial but also,

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6 For further detail, see Independent Review of the Criminal Courts: Part I (2025), Chapter 2 (Problem Diagnosis).

7 For further detail, see Independent Review of the Criminal Courts: Part II (2026), Chapter 2 (Context), para. 56.

8 See further, Offender management statistics quarterly: April to June 2025 (MoJ and HMPPS, October 2025); The role of adult custodial remand in the criminal justice system (House of Commons Justice Committee, January 2023).

potentially, act in the hope that delay will cause victims and witnesses to withdraw. The consequence is that victims and witnesses suffer, and justice delayed becomes justice denied. It is a fact that victims are withdrawing from the process in order to move on with their lives.

The Result

9. The above only summarises the problems which are described in both parts of the Review. At least for me, it comes as no surprise.[9] It has been clear to me from the outset that the scale of the problem means that more money alone cannot remedy the problem quickly enough (if at all). That is evident from the analytical evidence in Part I. Similarly, the scale and deep-rooted nature of the problems also made clear to me that efficiency measures alone (even if they could be quickly put into place[10]) would not be sufficient to meet the volume of cases now coming into the system, let alone to reduce the open caseload. These are some of the reasons that I agreed to the Terms of Reference which effectively required me to consider issues of structural policy reform in Part I before addressing efficiency in Part II. That is not to suggest that I am shying away from demanding more money for the system. I have been clear throughout that all the levers – more resource, structural reform and efficiency – have to be engaged. This provides the best chance for the system to be restored to a working version of what is familiar and permits the delivery of justice fairly and in reasonable time.

The Drivers of Reform

10. Contrary to the assertion of a number of those who challenge the recommendations advanced in Part I of the Review, the examination of the problems and the proposal of recommendations has not

9 I was involved in seeking to manage the operation of criminal justice between 2001 and 2019 when I retired and I have continued to take a keen interest in what has happened since. When I conducted the Review of Efficiency in Criminal Proceedings in 2015 with a requirement not to deal with legislative change, I was sufficiently concerned about the future that Chapter 10 ('Out of Scope') did refer to potential legislative change that could be considered.

10 This itself is a challenging assumption: the age profile of criminal defence solicitors and reports from middle-ranking barristers that they wish to leave criminal practice needs to be addressed but it will not happen quickly: to persuade young lawyers to practise in crime and to give them the experience required to advise in this field itself takes time. The same is so for legal advisers in the magistrates' court and, generally, for court staff who need to be capable of running a criminal court.

been driven by the need to save money. Indeed, it is certain that more money is an essential requirement to recovery, but I repeat the principles which have guided the Review from the outset. These are appropriate and fair decision-making, maximising participation and open justice, providing a proportionate approach to trial processes which are fair and have safeguards to prevent disproportionality while also ensuring the timeliness necessary for the benefit of victims, defendants and witnesses. In relation to efficiency in Part II, I have added principles of getting it right first time, fostering a culture of collaboration, minimising waste, demonstrating expertise and sustainability and augmenting processes through technology.[11]

How Parts I and II of the Review Operate and Relate to One Another

11. Both Parts I and II of the Review are intended to be read together because, in combination, they attempt to address the problems faced by each of the agencies involved in the delivery of justice. Part II contains recommendations at a more granular level than Part I and, as a result, these are both more numerous and detailed. The whole package of recommendations I have made interrelate. By way of example, in Part I, I recommended the greater use and development of strategies for out of court resolutions (OOCRs).[12] Although supportive of the recommendation, the police raised the issue of necessary resources. In Part II, I have attempted to relieve the police of what I consider to be unnecessary and bureaucratic processes. These relate to file build, redaction and rebuttable presumption material which, although created with the best intentions, does not always represent what the law requires and has been costly to resource.[13] My recommendations are not only the right thing to do by bringing direct, fair and proportionate improvements to the process but will also remove some pressure and thereby allow some resource to be devoted to OOCR.

11 See Independent Review of the Criminal Courts: Part I (MoJ, 2025), Chapter 1 (Introduction), para. 10 and Independent Review of the Criminal Courts: Part II (2026), Chapter 1 (Introduction) para.13.

12 See ibid, Part I Chapter 3 (Diversions).

13 See Independent Review of the Criminal Courts: Part II (2026), Chapter 4 (The Police and the Prosecution: Getting It Right First Time).

12. Within this Introduction, I have tried to bring the parts together and interweave the broad thrust of the recommendations into the narrative of a case from police investigation through to the conclusion of a trial. I must emphasise, however, that this brief summary is not a substitute for detailed consideration of the challenges or the solutions set out in both parts of the Review.

A Single Vision for a Fragmented Criminal Justice System

13. Overarching all the recommendations is the identification of fragmented governance and siloed decision-making with a lack of unified vision and accountability across agencies and across the country. The police, the Crown Prosecution Service (CPS), the defence community, HMCTS and HMPPS all have their own financial constraints and their own priorities. These include legacy IT systems and poor interoperability that hinder adaptability. I therefore recommend a single vision for the criminal justice system, with policy decided by Ministers and coordinated leadership directed by a second Permanent Secretary within the MoJ. I have proposed the title 'Prime Minister's Criminal Justice Adviser'. The role would come with statutory authority and an explicit Prime Ministerial commission. The new Permanent Secretary's authority would extend to co-ordination across government departments while at the same time being respectful of operational independence.[14]

14. I also recommend a revised governance structure with policy decided by Ministers. I would include the Secretary of State for Health and Social Care as a member of the National Criminal Justice Board. This would bring the serious mental health issues with which criminal justice presently has to deal to the heart of decision-making. Local (or, more likely, Regional) Criminal Justice Boards (with boundary alignment across criminal justice) should be accountable to the National Criminal Justice Board for delivery of performance measures. I also recommend improved data quality and interoperability of IT systems across criminal justice agencies.[15]

14 See Independent Review of the Criminal Courts: Part II (2026), Chapter 3 (One Criminal Justice System).

15 See ibid.

15. Moving on to the operation of criminal justice, I recommend the ability for legal representatives to advise suspects in the police station remotely, maximising participation and early engagement.[16] The use by police of Out of Court Resolutions should be expanded, applying standardised administration and integrated restorative justice for cases that simply do not need to go to court.[17] The resolution may include a financial penalty notice or a rehabilitative programme. In cases being investigated with a view to prosecution, release under investigation causes uncontrolled delay, I recommend its abolition, with improved bail processes and a change to the police approach to decision-making.[18]

16. A substantial focus of Part II is on strengthening collaboration between the police and the CPS. Better communication, training and joint understanding should assist more proportionate charging decisions.[19] When prosecution is being considered, poor case file quality and delays undermine the process. There are communication gaps between the police and the CPS with unhelpfully complex guidance and inconsistent training coupled with a less experienced workforce (all of which inhibits the prospects of 'getting it right first time'). I recommend that solicitors be informed automatically of charging outcomes to maintain early engagement. For the police and CPS, I call for better training and the use of artificial intelligence (AI) to build support tools along with digital interoperability to improve and reduce the time taken for a charging decision. The requirement for the police to undertake pre-charge redaction of material being shared with the CPS should be removed.[20]

16 See: Independent Review of the Criminal Courts: Part II (2026), Chapter 4 (The Police and the Prosecution: Getting It Right First Time).

17 Current usage has declined 35% due to complexity and lack of awareness. See The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (MoJ, 2025), Chapter 3 (Diversions). In addition, the police must be given credit for detection in these cases.

18 See ibid, Chapter 4 (Investigation and Charging Decisions).

19 See ibid.

20 See Independent Review of the Criminal Courts: Part II (2026), Chapter 4 (The Police and the Prosecution: Getting It Right First Time).

Disclosure

17. One of the increasing challenges once a prosecution has commenced relates to disclosure. It has become increasingly complex with digital evidence volumes exacerbating inefficiencies. Furthermore, failure of appropriate disclosure risks miscarriages of justice. I recommend removal of the rebuttable presumption that leads to disclosure of quantities of material (which does not necessarily meet the test of undermining the prosecution or assisting the defence).[21] I further recommend the use of AI summarisation tools for disclosure schedules (with the defence permitted to propose search terms for unused material). There needs to be additional disclosure training (particularly in relation to rape and serious sexual offences (RASSO)) and a requirement for timely service of the initial disclosure of the prosecution case (IDPC), and a strengthening of the ability of judges to prevent late issues being raised at trial without good cause.[22]

Hearing More Cases in the Magistrates' Court

18. In order to ensure that cases remain at the appropriate level within the court structure, I recommend removal of the right to elect jury trial for low-level offences (with a maximum of less than two years' custody). I also recommend reclassification of a number of offences as summary only, with the magistrates' court retaining the right to impose a sentence of up to 12 months' custody. In addition, I recommend that magistrates' court proceedings be audio recorded and that an appeal to the Crown Court require leave of that court on a point of law (for which purpose the relevant parts of the recording can be transcribed using AI).[23]

21 I am aware that different models are being piloted. On any showing, in my view, it needs substantial revision.

22 See Independent Review of the Criminal Courts: Part II (2026), Chapter 5 (Disclosure).

23 See The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (MoJ, 2025), Chapter 5 (The Magistrates' Court Process) and Chapter 6 (Appeals from the Magistrates' Court). I am conscious that the Deputy Prime Minister has announced a different approach to this recommendation. I return to his announcement of 2 December 2025 in paragraph 31 of this Overview.

Listing

19. Listing is the judicial process of matching a case to a court with an appropriate judge and legal representatives. It is approached differently in the magistrates' court and the Crown Court. Further, there is no consistency in approach across the country although it is recognised that in all courts over-listing leads to ineffective trials and wasted resources. Listing more cases than the court can ostensibly hear is intended to ensure that the court is occupied with work where a case is resolved more swiftly than was anticipated. This might be either because of a late guilty plea or prosecution collapse (which is also wasteful). In relation to the magistrates' court, I endorse the work of the Criminal Courts Improvement Group which is reviewing current listing policies. For the Crown Court, I recommend a national listing framework using AI tools to assist this judicial function. This would have real-time data dashboards and scheduling tools within Common Platform. Cases should also more readily be moved between courts. Grading for listing officers needs to be reviewed with training pathways improved.[24]

Court Processes

20. Moving on to the court processes, poor early preparation and inconsistent case management cause further delay. Case Progression Officers need to be appointed in all courts to ensure that the parties maintain the disciplined compliance which the Criminal Procedure Rules require. These Rules would benefit from simplification and digitisation to allow for integration into digital tools being developed across agencies thereby encouraging a culture of compliance. Case management training for magistrates and legal advisers (who should be able to sit alone in Not Guilty Anticipated Plea Courts to deal with preliminary issues only) should be enhanced with digital interactive case progression tools and automation for inbox management. Following an appropriate pilot, the period before Plea and Trial Preparation Hearing (PTPH) should be extended to ensure defendants have had the opportunity to receive informed legal advice. There should be a willingness to make expanded use of *Goodyear*

24 See Independent Review of the Criminal Courts: Part II (2026), Chapter 6 (Listing and Allocation of Workload).

indications and an increase of the discount for the earliest guilty plea. The Crown Court use of Final Review Hearings should be adopted nationally to ensure that trials will be effective.[25]

Remote Participation and Greater Use of Technology

21. More use should be made of the facility for remote participation albeit with safeguards. This should extend to first hearings in the magistrates' court, managed in police stations by Prisoner Escort and Custody Services (PECS) contractors. The default position for preliminary hearings in the Crown Court should be for the judge to sit in court with other parties appearing remotely, and where suitable it could be that all participants appear remotely. Trials should continue to be in person but remote attendance for certain professional witnesses (such as police officers, continuity and similar evidence) should be remote by default. At the sentencing hearing, remand defendants should be able to attend remotely, save where victim impact statements are to be delivered.[26] Interpreter shortages need to be monitored and simultaneous interpretation using AI should be piloted. Subject to contractual arrangements, AI interpretation ought then to be deployed in any case where interpreters are not available and also for hearings such as preliminary hearings but not trial or sentencing.[27]

22. In addition to transcription and translation, I recommend the use of technology to assist with other hearing processes such as the preparation of pre-sentence reports. I also recommend encouraging interoperability of IT systems whether by the use of Application Programming Interfaces (APIs) or otherwise. These reduce the need for rekeying and increase accessibility of necessary data required by different agencies. Investment in such technology is also critical for in-court use of IT to ensure that technology facilitates and does not prevent the effective deployment of available evidence such as CCTV or body-worn camera material.

25 See The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (2025), Chapter 7 (Maximising Early Engagement in the Crown Court).

26 See Independent Review of the Criminal Courts: Part II (2026), Chapter 8 (Remote Participation).

27 See Independent Review of the Criminal Courts: Part II (2026), Chapter 9 (Hearing Processes).

23. Increasing the use of video technology for applications in court or other preliminary hearings, and for conferences between defendant and counsel, will reduce the number of instances where it is necessary to move the defendant from a remand prison or other custody to court. Accordingly, there should be an improvement in the efficiency with which 'necessary' movements can take place. Real-time prisoner location data and better communication of court lists should also improve the production of defendants in custody. I recommend key performance indicators (KPIs) for PECS turnaround and would encourage the use of bus lanes by PECS vehicles. Delays in the provision of a Pre-Sentence Report (PSR) should also be monitored.[28]

Jury Trials and the Crown Court Bench Division

24. In relation to the Crown Court, I recommend the creation of a new 'Bench Division' of the Crown Court in which a judge and two magistrates, without a jury, will try cases where the judge at the PTPH anticipates a sentence of three years' custody or less. This would build on the suggestions of previous independent reviews (such as the 2001 Auld Review[29]) though those were for the creation of an Intermediate Court. The proposed Bench Division would ultimately have the same sentencing powers as presently exist in the Crown Court. The court would be able to sit in any courtroom and appeals would lie as presently to the Court of Appeal (Criminal Division). To support the Bench Division, I also recommend increasing sitting days in the Crown Court over time to an unprecedented 130,000 per year, as soon as is practicable given constraints on capacity.[30]

Judge-Alone Trials by Election and in Complex Fraud and Other Cases

25. Furthermore, in relation to the Crown Court, a defendant should be permitted to elect to be tried by a judge alone, subject only to the consent of the judge. This is the system in common law countries such as New Zealand, Canada and certain states in Australia. In addition, it should be open to the court to order serious and complex fraud

28 ibid.

29 The Rt Hon. Lord Justice Auld, Review of the Criminal Courts of England and Wales (HMSO, October 2001).

30 See The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (MoJ, 2025), Chapter 8 (Crown Court Structure).

along with other trials of anticipated exceptional length and complexity (as defined by section 29 of the Criminal Procedure and Investigation Act 1996) to be ordered to be tried by judge alone.[31]

Tackling Recruitment

26. Difficulties in recruitment and retention across the legal workforce in relation to criminal justice abound. This extends beyond judges, magistrates and legal advisers to barristers, solicitors and members of the court service. For some, the difficulties are a consequence of pay disparity, for others it is poor career pathways or limited flexibility. It undermines morale. It discourages entrants which, in the long term and unless addressed, could create a serious barrier to the fair, efficient and speedier resolution of criminal allegations. It requires an expanded recruitment of magistrates and improved mechanisms for the appointment of fee-paid and salaried judges. There also needs to be pay parity for legal advisers and funding both for training contracts and pupillages. Legal aid eligibility and fees need to be reviewed while also introducing a mechanism for staged payments. Detailed workforce data should be assembled and AI tools used to enhance operational skills across all criminal justice agencies.[32]

Broader Issues Affecting the Criminal Justice System

27. The Review also touches upon broader criminal justice issues. Mental ill-health affects significant numbers of those who come into contact with the criminal justice system. Many would benefit from much needed assistance with their mental health rather than being dealt with through the courts. Liaison and diversion services are essential in police stations. A comprehensive cross-government strategy and its impact on criminal justice is essential. Drug Partnership Boards should be expanded to include mental health provision. At the same time, Problem Solving Courts sitting at appropriate times can assist to fashion appropriate disposals in an effort to prevent reoffending.[33]

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31 See ibid, Chapter 9 (Trial by Judge Alone).

32 See Independent Review of the Criminal Courts: Part II (2026), Chapter 10 (The Judiciary and Legal Workforce); The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (MoJ, 2025), Chapter 7 (Maximising Early Engagement in the Crown Court) and Chapter 8 (Crown Court Structure).

33 See Independent Review of the Criminal Courts: Part II (2026), Chapter 11 (Broader Justice Issues).

Rape and Serious Sexual Offences (RASSO)

28. The needs of victims of rape and serious sexual offending and those accused of such offences generate unique challenges which I have sought to address in various parts of this Review. These include Achieving Best Evidence (ABE) interviews, disclosure, evidence admissibility and listing. Bringing them together requires targeted cross-system initiatives to improve their handling.[34]

Support for Women and Children

29. Similarly, addressing a different problem, the under-representation of women and children in custody has led to fewer and fewer remand and treatment facilities offering non-custodial options. Models such as Hope Street in Southampton provide community facilities which should be expanded for women and similar facilities should be available for children.[35] Consideration should be given to the provision of remand facilities for women and children nearer to the courts at which they are being tried.

A Crumbling Court Estate

30. Finally, the court estate suffers from chronic underinvestment, with a £1.3 billion maintenance backlog and facilities ill-suited to modern demands. Besides rendering a number of courts unusable, these defects also aggravate the issues of morale which affect those who work in the system. Repairing the courts is a necessary step but, on its own, obviously insufficient to address the issues facing the system. I recommend that the government commissions an inspection of the physical court estate and identifies areas for improvement. I also recommend that HMCTS publishes a post-2031 estate strategy and sets out how the criminal estate capacity can be maximised to take account of the recommendations from both parts of this Review.[36]

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34 To that end, dealing with child victims of abuse, I welcome the government announcement to extend the Barnahus model beyond the Lighthouse in Camden.

35 In Part I, I recommended that the Rehabilitation of Offenders Act 1974 should be reviewed (Recommendation 7); in Part II, I further address the policy for rehabilitation of children who committed offences when under 18.

36 See Independent Review of the Criminal Courts: Part II (2026), Chapter 11 (Broader Justice Issues).

Developments Since the Publication of Part I

31. Following the publication of Part I, on 2 December 2025, the Deputy Prime Minister announced an intention to legislate in response to a number of the recommendations. Since then, I have repeatedly been asked for my observations in relation to the proposals which he made. This has been particularly in relation to those areas where I have made recommendations which have been modified, not taken forward or in respect of which there has yet been no response. Given the proposal for legislation and the fact that my work has continued in producing the second part of the Review, it is only right that I provide some comment. In doing so, I recognise, of course, that it is for the government, Parliament and, to some extent, the judiciary to decide how to approach the challenge that criminal justice faces.[37]

32. In Part I, I said that the recommendations were not a 'pick-n-mix' series of options. As I made clear to the Justice Select Committee,[38] I did not intend by that phrase to require the government slavishly to follow each and every recommendation. What I was trying to convey was that, in my view, picking one or two of the recommendations would be insufficient. If there was to be any chance of addressing the outstanding caseload there had to be a whole-system approach which encompassed the broad thrust of what I was proposing and also dealt with the issues surrounding efficiency. Insofar as there has been a response, I believe that this is what the government has sought to do. I look forward to a response by the government in relation to each of the recommendations that I made.

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37 This is not least because I have provided no guarantee that the solutions (either in relation to policy or efficiency) will solve the problems. In para. 13 of the Introduction to Part I, I said:

> 'I do not approach these, often radical, recommendations lightly. However, neither do I believe that there is any realistic choice. I do not feel able to guarantee success, but I have no doubt that less dramatic change will not alter the overall picture. My conclusion is that it is only through the combined impact of these measures that steps can be taken to start to address (and, hopefully, overcome) this crisis.'

That remains my view and requires both policy and efficiency measures to be introduced. As I shall explain, it is critical that everything possible is done to improve the efficiency of the system if only to demonstrate to the Treasury and others that public money is not being wasted but is being used as effectively as possible.

38 Oral evidence: Independent Review of the Criminal Courts (House of Commons Justice Committee, November 2025).

33. The most significant change set out in the government proposals following my Part I recommendations has been the decision to remove the right to elect trial by jury. This is a possibility that I foresaw.[39] The policy option has a long history. Both the Royal Commission (chaired by Viscount Runciman) and Sir Robin Auld were of the opinion that the decision as to mode of trial should be for the court, subject to an appeal. In 2015, I reported that many involved in the criminal justice system took the view that the court, not a defendant, should decide how that defendant should be tried.[40]

34. I have no doubt that this is a decision for the government and, ultimately, Parliament. If that is the view taken, part of recommendation 15 (to the extent that restricting the right to elect was limited to certain low-level offences) falls away as do recommendations 16 and 18 on the basis that these were contingent upon retention of a right to elect in certain cases.[41] The decision to extend the custodial sentencing powers of magistrates to 18 months is similarly a matter for the government and Parliament.[42]

35. The recommendation to introduce a Bench Division as part of the Crown Court has found favour with the government. I recognise that, in large part, the legal professions have been vociferous publicly in their opposition to this proposal. A number of arguments have been deployed. To say, as has been suggested, that juries have been the bedrock of criminal justice for 800 years is undermined by any consideration of legal history. The history and development of trial by jury is set out in Sir Robin Auld's Report.[43] In addition to the factors listed there, I note that it was only in 1898 that defendants had the

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39 See The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (MoJ, 2025), Chapter 5 (The Magistrates' Court Process).

40 The Rt. Hon Sir Brian Leveson, Review of Efficiency in Criminal Proceedings (Judiciary of England and Wales, January 2015), para. 336. By way of analogy, in family law (potentially involving very serious issues engaging Art. 8 of the European Convention on Human Rights), the court determines whether a dispute is tried by magistrates, a District Judge (Magistrates' court), a District Judge, a Circuit Judge or a High Court Judge.

41 See The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (2025), Chapter 5 (The Magistrates' Court Process).

42 I understand that the power to extend the custodial sentencing powers of the magistrates' court beyond 18 months to two years is proposed to be taken but not necessarily implemented depending on how other modifications to the system impact on the outstanding caseload.

43 Review of the Criminal Courts of England and Wales by The Rt. Hon Sir Robin Auld: Chapter 5 paras 7–10.

right to give evidence in their own defence. Less than 60 years ago, trials were despatched with much greater speed than is possible today. As I have said, this is, in large part, because of increased complexity both of a procedural and evidential nature but also, in part, because of a deterioration in efficiency.[44]

36. It is argued that juries are not to blame for the open caseload. I have never suggested to the contrary. Juries try the cases that are put before them and provide a vital public service in doing so. Many who have been called for jury service have spoken of the recognition of their role that has been both valuable and important. That is particularly so in relation to the most serious cases. When thanking a jury for their service, I used to speak of it as the highest duty of citizenship. But this view is not the only one. Sir Robin Auld reported that 'support was not universal not least among those who have been jurors'. There have been more than a few reports of jurors who, even if engaged in trials, have considered that their time (and the disruption and cost to their lives) has been taken to resolve issues which they did not consider merited the attention they received.

37. It is inevitable that these trials must proceed at the pace of the slowest juror. The judge does not decide the facts and so has only a limited ability to limit prolix or unnecessary evidence. The judge does, however, have a vital role in requiring the parties to focus on the issues in the case which would be easier in cases which do not involve a jury. What I have done is to invite consideration of the proportionality of trial by jury for offences which, albeit potentially serious, are not the most serious in the criminal calendar. Nobody suggests that all crimes should be tried by jury – even those which might result in loss of employment.[45]

38. The question is where to draw the line having regard to all the circumstances. Those circumstances must include the timeliness of any trial. They should also include a consideration of the needs of victims, witnesses and, indeed, those defendants whose lives are on hold pending the resolution of their case. Suffice to say, I have no

44 On the growing complexity of criminal law, trial and procedure and the increasing duration of trials, see Independent Review of the Criminal Courts: Part I (MoJ, 2025), Chapter 2 (Problem Diagnosis).

45 Although originally triable by jury, it is no longer contended that driving with excess alcohol merits a jury trial even if the consequences to a defendant who drives for a living will mean loss of that employment.

doubt that, without introducing a Bench Division effective to deal with cases presently waiting in the system,[46] delays and the outstanding caseload will continue to increase. I equally have no doubt that a Bench Division would determine cases very much more quickly (without loss of fairness) than cases tried by a jury. Extra sitting days (for which not only courts but lawyers, judges and staff must be found) are necessary but, on their own, not sufficient to ensure that cases are disposed of within a reasonable time.

39. I understand the challenge in relation to the involvement of magistrates in the Bench Division. My reasons for taking a different view were set out in Part I.[47] An equality impact study will doubtless address these concerns. I recognise, however, that this is entirely a matter for government and Parliament.

40. The most significant area in respect of which the government has taken a different view relates to jury waiver. That concerns the defendant charged with an indictable only offence or one likely to carry a term in excess of three years' custody (thereby outside the Bench Division): I recommended that those charged with certain offences which would attract a trial by jury should be able to elect to be tried by a judge alone. I recognise that an ability by the defendant to elect in that way conflicts with the principle that decisions as to mode of trial should be for the court. However, I have taken a different view. A decision by Parliament that certain offences do not justify the time and expense of a jury trial is one thing. A decision by defendants that, although entitled to a trial by jury, they would prefer trial by a judge alone is quite another. A judge-alone trial will both be speedier and produce a reasoned judgment: many might prefer that approach. The experience of the three states in Australia, in New Zealand and in Canada supports that conclusion.[48] As I have made clear, this, again, is a decision for the government and Parliament.

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46 Those accused of crime are entitled to a fair trial. That trial should be in accordance with the law as it stands at the commencement of the trial. In the same way that when majority verdicts were introduced in 1967, they applied to trials then outstanding (and similarly in relation to the admissibility of evidence following changes in the law), so if a Bench Division is introduced, it will apply from the commencement of the legislation. To do otherwise will not alter the culture of those defendants who are only seeking to delay.

47 See The Rt Hon. Sir Brian Leveson, Independent Review of the Criminal Courts: Part I (MoJ, 2025), Chapter 8 (Crown Court Structure).

48 See ibid.

41. Given the wide-ranging and comprehensive nature of these reforms, evaluating their impact will be crucial. This will help decision-makers understand what works and what might need further change to inform future policy development. Therefore, I recommend that the government, the judiciary and all relevant criminal justice agencies must work to implement an evaluation of key reforms which is implemented from the outset with a clear baseline. This should include having a specialist team, with the correct skills dedicated to the evaluation of the reforms. As I set out in Part II of the Review, the proposed Prime Minister's Criminal Justice Adviser should be responsible from the outset for the evaluation strategy for recommendations made in both parts of this Review.[49]

42. As I have said, I do not consider that the government has failed to recognise the thrust of the structural recommendations that I have suggested. Having said that, I re-emphasise the critical need to make substantial systemic change to avoid descent of the system into one of ever-increasing delay. The uncomfortable but inevitable consequence of such delay would be true denial of justice for all.

Finally

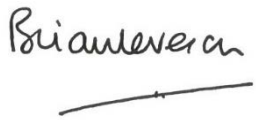
43. I have not sought to prioritise the recommendations that I have made. I recognise that some will be easier to deliver than others and I am equally aware that sufficient funding will be an important issue when the decision is made whether and, if so, how to prioritise. I repeat, however, that more money and efficiency measures alone will not be sufficient to allow the system to operate as it should. To be given the best chance of success, it requires all three critical levers – money, structural reform and efficiency. The sooner that all three can be implemented, the speedier will be the start of the recovery.

44. In the weeks before my retirement as President of the Queen's Bench Division in June 2019, I gave two lectures. I ended each with words that I thought were accurate. I said that I would look on with great interest to see what the future had in store and wished the audience well, saying that the future was in their hands. In the event, that turned out not to be the case and I have tried over the last year to protect that which I have always held dear in the criminal justice system,

49 See Independent Review of the Criminal Courts: Part II (2026), Chapter 3 (One Criminal Justice System).

recognising (as Sir Robin Auld had suggested in 2001 and I repeated in 2015) that change would be essential if the broad approach of the system that we operated was to continue.

45. The need for renewed public confidence in criminal justice is manifest and, in my view, critical for society as a whole. Ultimately, however, the decisions rest not just with government, Parliament and the judiciary but also with all those who make such an important contribution to criminal justice. This includes the police, the CPS and other prosecuting authorities, criminal defence solicitors, the Bar, HMCTS and HMPPS. I can only wish them well as they deliver the changes necessary to re-establish our criminal justice system as the envy of the world. I repeat: the future is in their hands.



The Rt Hon. Sir Brian Leveson

12 January 2026