Transform Justice

Transform Justice's response to the Independent Review of the Criminal Courts

31 January 2025

Background to Transform Justice

Transform Justice's vision is of a fair, open, and compassionate justice system. We believe that evidence about what works to reduce crime and prevent reoffending should be at the heart of policy decisions and embedded in practice. We work to promote change by generating research and evidence[1] to show how the UK justice system works and how it could be improved, and by persuading politicians and policy makers to make those changes.

We have limited expertise in the proceedings of Crown Courts. However, we have gained extensive experience of observing, researching and advocating about the magistrates' courts since the charity was set up in 2012. Most recently we have supported volunteer members of the public to observe magistrates' courts in London and published three reports on their findings.[2]

Overall we are concerned that efficiency in the courts has in the past been treated as a discrete issue. Reports have focused on the speed and timeliness of case hearings. Measures taken to increase speed have had a backfire effect on fair trial rights and on court outcomes, leading to higher use of remand and prison sentences. Given the government's overall aim of reducing sentence inflation, we recommend that all efficiency measures be appraised in light of their impact on the system as a whole, not just on the courts.

[1] https://www.transformjustice.org.uk/publications/
[2] https://www.transformjustice.org.uk/focus-areas/courtwatch-london/

We understand the single justice procedure is in scope. SJP process and efficiency issues are very different from those of open courts so we have submitted a separate paper.

How to reduce the backlog in the Crown Court

We recommend one key change to reduce the number of cases being dealt with in the Crown Court: to reduce the maximum sentence for a range of either way cases from two years to one year, and make them summary only offences. Thus these cases would be heard exclusively in the magistrates' court.

There are many either way offences which result in relatively low sentences in the Crown Court. Many such offences are non violent or not very violent. For example, assault emergency worker is the same offence as common assault (which has a maximum sentence of 6 months imprisonment) bar the victim involved. The offence can be someone shouting and, even where there was human contact, does not involve any lasting physical injury. We propose changing the maximum tariff for a range of either way offences including assault emergency worker. This would significantly reduce the number of cases received by the Crown Court and thus the backlog. We have analysed the either way offences which attract the lowest sentences in the Crown Court, highlighting offences which we suggest could be reduced to a 12 months maximum sentence (see appendix 1).

Through converting many either way offences into summary only offences, the caseload in the Crown Court would reduce considerably and there would be no need for an intermediate court nor for increasing magistrates' sentencing powers still further than 12 months imprisonment for one offence.

We do not support removing the right to a jury trial for adult offences which have a maximum sentence of two years. This is a long period of imprisonment and merits the quality of justice and democratic deliberation delivered by jury trials and by the Crown Court. Our knowledge of the practice of the magistrates' court suggests that the quality of justice in the magistrates' court is frequently poor.[3] It could be improved, but it would require significant resources and effort to bring the quality up to that of the Crown Court. We have never met a defence advocate who, if they were prosecuted for a crime, would opt for a magistrates' court hearing rather than Crown Court. We think this speaks volumes for their appraisal of the difference.

[3] The Wild West? Courtwatching in London magistrates' courts, Transform Justice

We understand the arguments for an intermediate court, but do not feel there would be any need for one if a sufficient number of either way offences were made summary offences with a maximum tariff of a year's custodial sentence. We are concerned also by the potential expense and inefficiency caused by the creation of a new court tier. As it is, the allocation and transfer of cases from the magistrates' court to the Crown Court is resource intensive and sometimes inefficient with information being duplicated and/or lost in the transfer. If there were two tiers above the magistrates' court, there would be further potential for misallocation and consequent inefficiency. In addition, a new court tier would require its own discrete staffing, management and premises, all of which would take up already scarce resources and add to current problems with staffing and building maintenance.

One idea associated with the intermediate court - a district judge sitting with two lay magistrates - could be used in the existing magistrates' court for trials and/or for sentencing of the most serious offences. This may provide better scrutiny and quality of decision-making. Currently, a district judge can try an unrepresented defendant for an either way offence and sentence them to imprisonment in a court where the only other lawyer is the prosecutor (the court advocate is not legally trained). We are concerned that decision-making in this context may not be subject to sufficient scrutiny and discussion.

One of the arguments for an intermediate court is that magistrates and district judges tend to be more punitive on sentencing and remand than Crown Court judges, thus that excluding cases from the Crown Court would lead to sentence inflation. We suspect magistrates and district judges are more punitive, and have frequently asked the Ministry of Justice to complete this analysis. They have not so far published such an analysis, and the recent impact assessment[4] for increasing magistrates' sentencing powers is weak in evidencing the actual impact of doing so in 2022 and the potential impact of reimposing this measure.

Given strong anecdotal data that magistrates and district judges are more punitive than Crown Court judges in similar circumstances (both for remand and sentencing) we would not support any further increase in magistrates' and district judges sentencing powers. As it is, we recommend close monitoring of the use in magistrates' courts of prison sentences above six months for one offence.

[4] https://www.legislation.gov.uk/ukia/2024/155/pdfs/ukia_20240155_en.pdf

Reducing the magistrates' court caseload

The magistrates' court deals with many cases which would be better dealt with by the police out of court. Any case dealt with in open court that results in a fine or absolute or conditional discharge could arguably be better diverted from prosecution. The police have a menu of options for dealing with cases out of court using conditional cautions and community resolutions which include paying compensation, restorative justice and rehabilitative programmes. This is a much richer menu of options than is available to courts for lower level offences. Also, the reoffending rate for cautions is much lower than for any court sanctions. In order to get more cases diverted from the magistrates' court we propose:

- Producing guidance for the police and CPS indicating that certain offences should be dealt with out of court bar exceptional circumstances.[5]
- Facilitating courts to refer cases back to the police for disposal. Courts should not have to sentence people just because they have pleaded guilty to a low level offence. We are particularly referring here to low level offences where the defendant did not accept responsibility in police custody but then pleaded guilty at their first appearance. These offences are often dealt with by way of an absolute or conditional discharge, a sentence which delivers no rehabilitative or reparative benefit and yet causes the recipient to acquire a more serious criminal record than if they had been diverted.
- Increasing the use of deferred prosecution[6], whereby suspects who agree to complete a rehabilitative programme (but may not formally admit responsibility) are diverted from prosecution and do not receive a criminal record if they comply with conditions.

These measures would reduce the magistrates' court caseload, reduce offending (since out of court resolutions are more effective) and reduce ethnic disproportionality, as defendants from ethnic minorities who are distrustful of the police are less likely to make formal admissions and thus more likely to be prosecuted.

[5] Transform Justice's response to the Independent Sentencing Review, Transform Justice, 19.
[6] Why avoiding prosecution leads to less crime, Transform Justice

How to make the magistrates' court more efficient

Reducing police and court remand

Defendants who are remanded (detained post-charge pending their first court appearance) by the police take up significant court resources and may create inefficiencies and unnecessary use of prison and court custody. Every defendant remanded by the police must be transferred in a secure van from the police custody suite to the court (for their case to be heard on the next day the court is running), held in court cells, accompanied from the court cells to the dock and guarded there. This is very costly and frequently leads to court inefficiencies - vans from police custody often arrive late, and engagement with defence counsel takes longer if the defendant is detained in court cells.

Defendants who have been remanded by the police put pressure on the whole system since the defendant needs to consult a defence practitioner (possibly also court health practitioners) before the hearing and the defence may need to get further disclosure and information prior to the hearing. Professionals have a very short time, sometimes only minutes, in which to complete inquiries before the first hearing. The prosecutor must also prepare for every case involving a police-remanded defendant "on the hoof" and seek missing information whilst the clock is ticking. If the defendant poses a significant risk, then police remand, detention in court cells and the concomitant pressure to get the hearing prepared and completed on the day is justified. But it is not clear that most defendants remanded by the police do pose a significant enough risk to justify detaining them post-charge in police custody and spending the associated resources on them in court. The majority of those remanded by the police are released by the court on bail or on sentence. Police remand could be reduced by changing police practice within current guidelines and/or by tightening the PACE criteria used to justify remand.

While most of those remanded by the police are released by the court, there are indications that even more defendants charged by the police would have been released by the court if the police had not remanded them. Someone who has been remanded by the police may be seen by the bench as a greater potential risk on bail because of that decision, and because they then appear in the dock guarded by officers. It is much more difficult for a defence practitioner to prepare arguments for bail/a non custodial sentence if they have had little time to consult their client and prepare for the hearing. Research conducted by the charity Justice[7] and by Dr Tom Smith[8] showed that many defence

[7] Remand Decision-Making in the Magistrates' Court, Justice
[8] 'Rushing Remand'? Pretrial Detention and Bail Decision Making in England and Wales, Tom Smith

practitioners did not oppose the remanding of their client at the first appearance, presumably because they lacked time to prepare arguments for bail. When bail is not opposed at the first appearance and the defendant is remanded, it can create inefficiencies down the line with a further hearing needed in the magistrates court or Crown Court to deal with bail. Thus reducing police remand is likely to also reduce unnecessary court remand.

Of course some people need to be remanded by the police but evidence suggests that a reduction in the numbers remanded by police would lead to a significant saving in resources and in greater overall efficiency.
A reduction in the use of court remand by magistrates' courts would also increase efficiency. Of those remanded and later tried in magistrates' courts, only 34% receive an immediate custodial sentence. The criteria for court remand are different to those applicable to a custodial sentence but the bench is required to use remand only where there is a "real prospect" of a custodial sentence. The proportion who do not receive an immediate custodial sentence indicates that this criterion is not closely followed. Remanding people who may not need to be remanded uses significant court resources - in keeping defendants in court cells, in transporting them to and from custody and in holding remand review hearings. Some people need to be remanded in custody pending trial, but even a small reduction in unnecessary remand would aid court efficiency (as well as reducing the prison population).

Reform the law and practice of dealing with warrants without bail

A consistent minority of defendants who appear in courts from police custody have been arrested on warrant. They did not previously appear at their scheduled court hearing and magistrates' approved warrants for their arrest without bail. These defendants when found are arrested and usually taken to police custody for processing. They are kept in police cells until the next available court hearing to which they are taken in a secure van. Like anyone else who arrives from police custody, they are kept in court cells until their hearing.

The resources expended on this group are often wasted. If greater efforts were made to remind defendants of their court appearance (in accessible language), fewer defendants would fail to appear. Most defendants who neither turn up nor communicate reasons to the court for not appearing have not absconded - they are not trying to evade justice. The police and other authorities know where to find them. Most such defendants are released by the court after they appear from court custody. Therefore they use disproportionate police, secure van and court resources.

Of course defendants should appear at court at their scheduled hearing time and means need to be found to get them to court, but we recommend creative thinking is applied to find better solutions to arrests on warrant without bail. Perhaps if the location of the defendant is known and the alleged offence is low level, civilian workers could be contracted to accompany the defendant straight from their home to court?

Getting defendants to court on time

Much court time is wasted, and hearings are frequently adjourned, due to defendants arriving late or not attending their hearing.

Defendants detained in police custody or in prison must be brought to the court in secure transport, unless they appear by video link. This transport (called the Prisoner Escort and Custody Service, or PECS) frequently arrives late thus keeping defence lawyers and everyone in the court waiting to start. We are not experts in the reasons why the vans are late, nor in the contractual obligations of the PECS firms, but wonder if their performance could somehow be improved? Reducing the numbers on police and court remand should help improve their performance, but there may be other measures.

Defendants who are in the community on their court date often do not turn up in court - they forget, lose the details of the hearing or don't receive them in the first place. Postal requisitions are sent via ordinary post and may be sent to the wrong address or not reach the defendant. Many defendants are vulnerable and/or lead chaotic lives. Court efficiency could be vastly improved if defendants were reliably informed of their court dates and given text/email reminders of them. If the defendant and nominated individual consents, the court/police should also message the carer and/or support worker for the defendant.

In his book 'Over-efficiency in the lower criminal courts',[9] Dr Shaun S. Yates recommends that the court should provide defendants with an immediate, in-court, written receipt of proceedings detailing the hearing outcome (including any bail conditions), key dates and times of upcoming hearings, key tasks that court staff need to complete between hearings, as well as who is going to attend future hearings and why.

Some delays also occur because witnesses do not appear at the time scheduled for the trial at which they are giving evidence. We recommend using some of the same techniques (reminder emails, messages, calls etc) we suggested above for defendants. Witness support could also support witnesses to turn up by reminding them.

[9] Over-Efficiency in the Lower Criminal Courts, Shaun S. Yates

Representation of defendants

Transform Justice conducted research on unrepresented defendants and the challenge posed by them (not least to their own fair trial rights) in 2016.[10] CourtWatch London volunteers also observed unrepresented defendants in London magistrates' courts in 2023. Our legal aid system does not allow all defendants to get free legal aid so there are always some defendants in magistrates' court hearings who are unrepresented. There are probably also a minority of defendants who are in fact eligible for legal aid but have not accessed it, either because they cannot find a lawyer to take their case (there are legal aid deserts in particular geographical areas, and for certain types of cases), because they don't know they are eligible or because they think they don't need a lawyer.

Unrepresented defendants inadvertently cause great inefficiency. Their cases on average take longer than represented people because they do not understand their rights, the process, or legal language. Time is taken up by staff, judges and prosecutors giving legal help (they cannot give legal advice) and explaining the process. If going to trial, unrepresented defendants can spend longer than a lawyer would advocating and cross examining. The inefficiencies caused by lack of representation could be mitigated by:

- Providing better written information on legal rights and processes to defendants pre court and at the courthouse.
- Providing better in person legal help at court.
- Providing unrepresented defendants with their own case papers online (they have no access to the common platform) or ensuring that pre-trial papers are posted/given to defendants sufficiently in advance of their hearing.
- Improving take up of legal advice amongst those eligible.
- More radically, by providing free legal advice for all defendants appearing in the magistrates' courts and increasing the number of duty lawyers.

The way defence practitioners operate in the magistrates' court can also result in inefficiency. Most of those who are eligible to use the duty solicitor could have accessed a lawyer in advance of their hearing. This would be more efficient since it would enable the lawyer to properly prepare the case. The duty lawyer who is picking up what are often complex cases on the day frequently does not have the information they need to present the case as efficiently and effectively as possible. There are often queues of defendants waiting to see the duty solicitor. We need more defendants to arrange legal advice in advance so the duty has more time to give each case its due, and to prevent the duty's queue of cases holding up the court. We also need more duty solicitors in some courts.

[10] Justice denied? The experience of unrepresented defendants in the criminal courts, Transform Justice

Early guilty pleas

No one doubts that earlier guilty pleas (and more of them) would aid the efficiency of the court. The question is how to achieve them without exerting undue pressure to plead guilty and compromising fair trial rights.

The discount for pleading guilty early is already pretty significant. We would not recommend this be increased. Research by LSE[11] and the University of Exeter[12] indicates that "incentivised admission" can lead to major and minor miscarriages of justice particularly in the case of vulnerable defendants.

There are other ways of encouraging the right people in the right way to plead guilty early. The most important is to improve disclosure. Lawyers will advise their clients to plead not guilty if they have insufficient disclosure to advise otherwise. People who "did" what they are accused of may have a viable defence, which is only revealed through consultation and disclosure. If the defendant has been charged and remanded by the police, disclosure prior to the first court appearance is likely to be minimal. The police and CPS need to give defence practitioners more disclosure in police custody and before the first hearing in order to increase early guilty pleas. Where a defendant is unrepresented, staff and judges should be wary of putting undue pressure on them to plead guilty.

Plea bargaining

Officially, we do not have plea bargaining in England and Wales. Unofficially, defence lawyers often advocate for their client to be prosecuted for a different, lower charge in return for a guilty plea. In reality this negotiation is often successful. We have no concerns with this process as long as the defendant is not coerced (as happened in many Post Office cases) into pleading guilty, and as long as equal opportunities for negotiation are offered to unrepresented defendants. All such "plea bargains" increase efficiency since they increase the number of guilty pleas. But their contribution to efficiency could be improved further still.

A change of charge is often discussed with and agreed by the CPS quite late in the day. Meanwhile, defendants can be remanded by the court on the basis of the more serious charge and many pre-trial hearings take place. We recommend that systems are set in place for these discussions to be held earlier in the process to facilitate resolution of cases. This may require less pressure on defence and prosecution to be speedy! Whatever

[11] Pleading guilty: why vulnerability matters, Jill Peay and Elaine Player
[12] https://evidencebasedjustice.exeter.ac.uk/current-research-data/incentivized-admission/

processes are set up, these should include safeguards to prevent undue pressure to plead guilty.

Court Hours

In previous years it has been suggested that magistrates' courts should operate extended hours in order to increase the throughput of cases. We think that productivity could be improved by using the full hours available to them. Our evidence is that that courts frequently don't actually start hearings at 10am or continue till 5pm. On Saturdays, when they could technically run all day, they usually only run for a half day. Hearings of unrepresented defendants could be listed for Saturday afternoon.

Interpreters

There has long been anecdotal evidence that provision of interpreters for defendants and witnesses causes delay in the magistrates' court.[13] Some say problems started escalating when the provision of interpreters became managed centrally and all interpreters had to be sourced from a single contractor. Different companies have held the contract but there are still problems with the right interpreters being booked for the right hearing - and turning up.

Delays related to interpreters were fed back by our courtwatcher volunteers who observed London magistrates' courts. These related to:

- An apparent lack of prior information that the defendant would need an interpreter. Hearings were adjourned when defendants who clearly needed interpreters turned up at court and none had been booked. Some benches still tried to go ahead but this was unlawful and proceedings were still slower than otherwise.
- The wrong interpreter sometimes being booked, or an booked interpreter not showing up, meaning the hearing must be adjourned.

We recommend that delays in the magistrates' courts due to interpreter booking issues could be reduced if:

- The police (and anyone else with knowledge of a defendant's language needs) communicated the need for an interpreter more efficiently to the court service, the CPS, and the defence.

[13] The Wild West? Courtwatching in London magistrates' courts, Transform Justice, 14

- The interpreter contractor fulfilled its bookings efficiently.

Many defendants have reasonably good English but cannot cope with the technical, legal language used in court. If lawyers, judges and legal advisers simplified the language used, an interpreter may not be needed. All concerned should check such defendants have understood proceedings and outcomes.

Technology

Lord Leveson's previous report on how to achieve efficiency in the magistrates' courts put forward better use of technology as a key recommendation.

Digital case files have been introduced in the magistrates' courts via the Common Platform. After suffering considerable teething troubles, we understand the Common Platform is now working fine. This is a big step forward and we recommend that the system be updated to facilitate unrepresented defendants (and maybe represented defendants) accessing their own case files online.

We are less certain that video links, still less all video hearings, enhance efficiency in magistrates' courts and are confident that they can be detrimental to the effective participation of defendants.[14] Video links for defendants in prison have been used for many years and video links from police custody were piloted pre-Covid and used during the pandemic. Evidence from evaluations of video links from police custody indicate that video links in these circumstances do not decrease the overall duration of cases and can have significant effects on levels of representation (lower where video links used) and use of short prison sentences (higher where video links used). These are indications of effects rather than robust data, but concerning nonetheless.[15]

There is very good evidence from a number of studies that criminal defendants find it harder to effectively participate in their hearings when they are on video link from prison, police custody or elsewhere. Poor technology can lead to poor sound and sightlines. The defendant is isolated from their lawyer and less able to ask questions or intervene. They are also disconnected from proceedings and unable to "read the room". This often leads to frustration or to the defendant "tuning out" of the hearing.

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[14] Magistrates' courts and Covid-19: Magistrates' experience in criminal courts during the pandemic, Transform Justice

[15] https://www.sussex-pcc.gov.uk/media/4862/vej-final-report-ver-12.pdf, Inclusive justice: a system designed for all (interim evidence report), https://www.gov.uk/government/publications/virtual-courts-pilot-outcome-evaluation-report

We understand that improvements in technology may alleviate some of the problems experienced by defendants on video links. But we are sceptical that the barriers to effective participation set up by video links can ever be overcome.

We understand that video links from prison can be much more efficient than in person appearances for some purposes. But would suggest that the use of video for remand hearings be reviewed. They may save defendants, PECs and court staff time, but having any remand hearing on video may have a prejudicial result on decision making - influencing the judge against bail. The pre-trial prison population is at an all time high. We think proper research needs to be done into the comparative outcomes of remand hearings on video versus in person, before the use of video links is extended.

The above findings relate to video links in magistrates' courts. There has been very little research on the impact of video links in Crown Courts.[16] A study of impact was attempted by MoJ researchers but unfortunately they did not have the data to make any meaningful conclusions about the impact on *defendants* of being on video link, and the study only looked at the impact of plea hearings. The MoJ had data on whether a video link was used but not *who* was on the video link. They found "there were little meaningful differences found in differences in pleas submitted or in the outcomes for not guilty pleas when remote plea hearings instead of in-person were used," However, this could simply reflect what happens when the *prosecutor* is on the link. Without data specifically about the outcomes when a defendant is in person or online for a range of hearings, we do not know if there is a difference in outcomes.

The study found no impact in total time taken: "remote hearings were slightly shorter than matched in-person hearings but using remote plea hearings did not impact the total duration of and the number of total hearings in a case."

Appeals from the magistrates' court to the Crown Court

In his review of efficiency in criminal proceedings Lord Leveson suggested (in "out of scope issues") that the right of appealing sentence or conviction from the magistrates' court should be reviewed. The implication was that streamlining the process and introducing a filter for approving suitable cases would improve efficiency. It was also suggested that a complete rehearing of the original case was inefficient.

[16] https://www.gov.uk/government/publications/the-impact-of-remote-hearings-on-the-crown-court

We appreciate that a complete rehearing of a case (as happens now) is a significant use of resources, but would suggest that it is the most just use of resources currently and that few resources are spent on criminal appeals from the magistrates' court anyway. The number of people who appeal their sentence or conviction from the magistrates' court is small and has been reducing in recent years. Only 5,819 people appealed their sentence or conviction from the magistrates' court y/e September 2024 - half the number that appealed ten years ago (CCSQ c11). On average, a minimum of 40% of such appeals are successful - a significant proportion. Also, every acquittal or sentence reduction as a result of an appeal will save the public purse.

We agree that it would be more efficient if there was no default right to appeal and if cases did not have to be reheard, but while the magistrates' court is not a court of record we think this is the only fair process. A significant proportion of appellants are unrepresented. They do not have the capacity or wherewithal to write verbatim notes during their own trial or sentencing, nor to work out in the moment whether a judge's decision was legally sound.

We recommend that the magistrates' court should become a court of record to facilitate the streamlining of appeal hearings, but we do not recommend that the right to appeal should be reformed. Appeals perform a critical function in moderating sentences. Very few defendants appeal from the magistrates' court and rights to appeal need to be accessible to unrepresented defendants.

Listing

While listing is technically the responsibility of the judiciary, in reality it is the court staff who list cases in the magistrates' courts. Quite how listing works is not clear since no research has ever been done into it. But it has a significant impact on efficiency. If cases are listed when they are not ready, time will be wasted and they may have to be adjourned. If too few cases are listed, court time is wasted. If cases are over-listed, hearings can be rushed or, in the worst scenario, witnesses who have been waiting all day may have their hearing cancelled.

We recommend that independent research is done into listing including interviews/surveys of staff and judges as to how decisions are made. This research should lead to an open policy-making process, looking at how listing could be done most effectively. We recommend that this policy review should include addressing whether listing should remain the exclusive responsibility of the judiciary.

Localisation

The courts have become increasingly centralised in the last twenty years, particularly their administration. Up until 2003, magistrates' courts were run locally by magistrates' courts committees. The premises were then owned by local authorities. The Courts Service disbanded committees and purchased the courts in 2003.

The administration of the magistrates' courts was centralised in the name of efficiency but we are not convinced that this has worked. Evidence for localised magistrates' courts being inefficient was weak and anecdotal. When magistrates' courts were managed locally, maintenance was also managed locally. For instance, a missing light bulb could be easily replaced. Currently, major and minor building maintenance issues cause delay and inconvenience in Crown and magistrates' courts.

Relocalising the administration of magistrates' courts would in the short term be very resource intensive, but could lead to greater efficiency in the medium and long term.[17]

Recommendations for greater efficiency

- Reduce the number of either way cases heard in the Crown Court by reducing the maximum sentence for a number of specific offences from two years imprisonment to one year.

Magistrates' court recommendations:

- Increase the capacity of the magistrates' court by diverting more cases from prosecution altogether, preferably at the police station but, if not, once they reach court.
- Reduce police use of remand in police custody.
- Reduce unnecessary use of court remand through ensuring better adherence to the "no real prospect test".
- Design an alternative to the current warrants without bail system to avoid the use of police and court custody in the majority of cases.
- Give defendants better and more accessible information about their future court dates. Ensure postal requisitions are received and that defendants are reminded of court dates using email/text/WhatsApp.

[17] For greater detail please see: Managing magistrates' courts, Transform Justice, Close to home, Transform Justice

- Increase take-up of legal aid by eligible defendants (ideally before the day of their court hearing).
- Give more support to unrepresented defendants to effectively participate in their hearings and to access fair trial rights.
- Give unrepresented defendants access to their case files online.
- Increase the number of guilty pleas by improving police and CPS disclosure and by introducing "plea bargains" earlier (while safeguarding against undue pressure to plead guilty or from discrimination against unrepresented defendants).
- Improve communication about the need for interpreters and the performance of the contractor.
- Do not expand the use of video links given there is no evidence they improve efficiency but much evidence they impede effective participation of defendants.
- Do not restrict the right to appeal from the magistrates' court.
- Explore the benefits of relocalising magistrates' courts.
- Increase data and research on the impact of court processes on outcomes.
- Commission independent research on the practice and impact of listing on the efficiency of the court and on other court outcomes.

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Appendix 1

Either way offence cases in the Crown Court by offence with proportion ending in discharge/fine/community sentence, year ending December 2023.

Data source: Crown Court data tool from MOJ criminal justice statistics.

Filtered for: offences with over 100 cases in the Crown Court in the year ending December 2023; offences where over 20% of cases ended in discharge/fine/community sentence.

Highlights indicate those filtered offences suitable for downtariffing to a 12-month maximum sentence.

Offence	Total outcomes in CC of trials/ sentencing	Discharged/ fine/ community sentence	Average custodial sentence length (months)
85 Health and Safety at Work etc. Act 1974	92	66%	11.3
92E.01 Possession of a controlled drug - Class B (cannabis)	907	49%	2
92D.02 Possession of a controlled drug - Class B (excluding cannabis)	119	47%	2.2
92D.01 Possession of a controlled drug - Class A	761	43%	0.8
8.02 Owner or person in charge allowing dog to be dangerously out of control in a public place injuring any person	122	41%	21.1
58D Other Criminal Damage	208	38%	9.5
84 Trade Descriptions Act and Similar Offences	144	38%	11.6
10B.2 Possession of firearms offences - triable either way	240	38%	16.8
8.22 Assault of an emergency worker	1495	32%	3.9
8.13 Racially or religiously aggravated causing intentional harassment, alarm or distress - words or writing	316	32%	3.6

Offence	Total outcomes in CC of trials/ sentencing	Discharged/ fine/ community sentence	Average custodial sentence length (months)
86.2 Possession of indecent photograph of a child	195	28%	14.2
8.07 Racially or religiously aggravated common assault or beating	78	26%	5.6
86.1 Taking, permitting to be taken or making, distributing or publishing indecent photographs of children	2270	25%	19.2
8.20 Sending letters etc with intent to cause distress or anxiety	271	25%	6.4
88E Exposure and voyeurism	214	24%	7.3
59.4 Threat etc., to commit Criminal Damage - triable either way	153	24%	10.3
11 Cruelty to or Neglect of Children	239	23%	33.6
54 Handling Stolen Goods	631	23%	12.2
66.4 Breach of a non-molestation order	361	23%	8.9
33 Going Equipped for Stealing, etc.	84	23%	7.4
66.9 Other Offence against the State or Public Order - triable either way	986	22%	13.7
66.1 Affray	1696	21%	11.9
41 Theft by an Employee	163	20%	18.7
39 Theft from the Person of Another	555	20%	10.4