

For Consideration	
Public/Non Public*	Public
Report to:	Police and Crime Panel
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Agenda Item:	7

COVID-19: COURTS AND CRIMINAL JUSTICE RECOVERY PLAN 2020/21

1. PURPOSE OF THE REPORT

- 1.1 This report provides the Panel with an update on the national and local Court Recovery Plans established to address additional pressures on the criminal justice system as a result of the COVID-19 pandemic and limited court availability. Whilst decisions relating to court listings sit firmly within the control of the judiciary, Nottinghamshire Police has been working with the CPS and other partners to support recovery planning, particularly in the criminal justice response to major crime, serious and organised crime and domestic violence.

2. RECOMMENDATION

- 2.1 That the contents of the report be noted.

3. NATIONAL COURT RECOVERY PLANS

- 3.1 The Coronavirus pandemic has had a significant impact on the Criminal Justice System (CJS) since lockdown measures were first announced by the Prime Minister on 23 March 2020. This saw widespread closure of Magistrates Courts across England and Wales, with the CPS issuing an Interim Charging Protocol on 1 April, and guidance on the application of the Public Interest test on 14 April to manage the growing backlog of demand on the CJS. This required prosecutors to consider the impact of the pandemic when deciding whether charges are in the public interest.
- 3.2 The CJS continued to operate throughout the early stages of the pandemic, but at a significantly reduced scale. Priority courts were established from 30 March 2020 to deal with urgent applications for matters such as terrorism and domestic abuse. Serious and time-sensitive youth cases were also prioritised where possible, as were cases involving assaults on emergency workers. The majority of hearings related to custody time limits and decisions on detention and bail.
- 3.3 Audio/video technology was used to enable remote hearings to be held and rollout of the Cloud Video Platform was accelerated to enable many more cases to be finalised than would otherwise have been possible. Although preliminary hearings

can be carried out with most participants attending remotely, trials and sentencing hearings often require physical attendance in court. Social distancing requirements, therefore, have continued to have a significant impact on the ability to progress cases through the CJS.

- 3.4 Jury trials were particularly affected, with many courtrooms not being large enough to accommodate the jury and all courts users safely. Jury trials re-commenced in May, but with significantly reduced capacity. As a consequence, Magistrates' Court finalisations fell by around 66% in quarter 1 2020/21, from an average of 96,000 to just under 33,000 nationally. The total live caseload at the end of quarter 1 2020/21 stood at just over 170,000 outstanding cases. This largely fell within the Magistrates' Court where the live caseload more than doubled between 31 March and 30 June 2020 (from 64,201 to 123,287).
- 3.5 The Crown Court, meanwhile, saw only a marginal increase (+5%) in outstanding cases between 31 March and 30 June 2020 (rising from 45,268 to 47,566) as very few cases progressed from the Magistrates' Court to the Crown Court. Consequently, the true impact of restrictions on the backlog of cases presenting to the Crown Court is not yet apparent. Demand on the Crown Court is expected to grow markedly as the capacity of the Magistrates' Court increases over the coming months. Finalisations in the Crown Court decreased significantly during quarter 1 2020/21 from 14,609 to 8,609. As very few jury trials took place. The majority of finalisations during this period were sentencing or guilty pleas.
- 3.6 The national CJS Strategic Command (CJSSC) published their criminal justice recovery plan in September 2020. This included steps to maximise use of the existing estate, open existing buildings for longer periods during the COVID-19 period, continue to use technology to support remote or video hearings and provide additional capacity through the opening of Nightingale Courts.
- 3.7 Specific actions included:-
 - Installing plexiglass screens into over 300 courtrooms and jury deliberation rooms to enable 250 Crown Court rooms to be used for jury trials by Nov 2020
 - Maximising use of Cloud Video Platform (CVP) hearings in open courts and the Prison to Court Video Link (PCVL) which went live on 17 August 2020
 - Spending £80m on a range of emergency measures to tackle the impact of COVID-19, including the recruitment of 1,600 additional staff
 - The opening 18 'Nightingale court' sites between August and October 2020 to increase court capacity.
 - Temporarily extending the Custody Time Limit in the Crown Court^a by 2 months (56 days) for 9 months from 28 September 2020.

^a Temporary extension to address the impact social distancing has had on jury trials and minimise the risk that some defendants pose to the public, or the risk of individuals absconding

4. NOTTINGHAMSHIRE MAGISTRATES COURTS

- 4.1 In Nottinghamshire, the Mansfield Magistrates' Courthouse was closed to the public following the COVID-19 lockdown on 23 March 2020 and used only as a HMCTS administrative centre. All work was diverted to the Justice Centre in Nottingham (Carrington Street), where separate courts sessions are being held on Fridays for Mansfield Anticipated Guilty Plea (GAP) cases and Anticipated Not Guilty Plea (NGAP) cases.
- 4.2 Reflecting the national picture, Nottinghamshire saw a marked increase in outstanding workload in the Magistrates Court during quarter 1 2020/21. A Courts Recovery Plan was initiated in August 2020 with work to clear the backlog of initial hearings in the Magistrates Court being prioritised by case type. A backlog of 178 domestic abuse cases in August 2020 was cleared by October 2020 following the introduction of 23 additional court sittings. A backlog of youth cases was also cleared also in early October 2020, with work now underway to reduce the timeframe for any case needing an adjournment in the youth court.
- 4.3 Despite disposals having largely exceeded receipts in the Magistrates Courts since August 2020, the workload in Nottinghamshire remained around 9% higher than pre-lockdown levels^b as at 4 October 2020, with some trials being adjourned for around 3 months. HMCTS, however, report an improving picture, with four additional trial courts being introduced on 14 October and three crime courts now being run each week in Mansfield which are expected to help reduce delays in adjournments to a level that is in line with the pre-lockdown target (8 weeks).
- 4.4 Cases destined for the Crown Court are being fast tracked through the Magistrates court in similar timescales to pre-lockdown. The full backlog of Magistrates Court cases accrued during lockdown is expected to be cleared in the by the end of the year, after which time, attention will be turned to reducing the delay between the date the police initiate proceedings and the first hearing at court. This delay currently stands at over four months but is likely to be addressed as part of plans to add a further 10 courts to the listings plan over the coming months.
- 4.5 It is anticipated that the backlog of GAP cases will be cleared by 15 January 2021 although HMCTS are working to bring this forward on account of the increasing number of court slots becoming available. It should be noted, however, that a significant amount of new work is to be listed in these court slots with much of the postal requisition work already being listed well into 2021. The backlog of NGAP cases is scheduled to clear by 16 February 2021, however HMCTS are also working to bring this forward on account of the capacity freed up from clearing the youth and domestic abuse court backlog.

^b *Provisional unvalidated statistics 4 October 2020: Data includes warrants without bail, motoring offences and prosecutions by local authorities. It should be noted that Nottinghamshire maintains a smaller increase in outstanding workload (+9%) than both the Midlands (+22%) and national average (+27%)*

Nottinghamshire Magistrates Court Workload

Court	22 March 2020			13 September 2020			4 October 2020		
	Receipts	Disposals	Outstanding	Receipts	Disposals	Outstanding	Receipts	Disposals	Outstanding
Nottingham	1,031	432	7,472	256	393	8,717	285	718	8,291
Mansfield	90	80	1,103	n/a	n/a	1,168	n/a	n/a	1,056

- 4.6 Charge and Bail matters are given the next available court dates and postal requisitions are listed to any available slots not used by custody. The CJ team ensure that they are effectively managing backlogs taking into account out of time dates, and vulnerabilities such as domestic abuse, youth crime and hate crime.
- 4.7 Police Led Prosecutions work is now 12 months overdue as a result of backlogs which predated the Covid-19 lockdown. While SJP sessions have continued, this has not been at the same speed as prior to lockdown. The number of slots in SJP was subsequently increased from 240 per week to 300 and Saturday PLP courts are being held to help address the backlog. Nottinghamshire Police also report marked reductions in the number of outstanding postal requisition cases, having fallen from 700+ in April to 467 in October 2020. Of these, 274 cases have a court slot and are waiting to be processed, while 193 are waiting to be booked in and given a court slot.

5. NOTTINGHAMSHIRE CROWN COURT

- 5.1 In Nottinghamshire, two of the largest Crown Court rooms available were adapted and made COVID-secure during the early stages of the pandemic. Perspex screens were introduced in areas where two metre distancing could not be assured. The court rooms were used to accommodate Nottinghamshire, Derbyshire and Lincolnshire cases during the pandemic. Derbyshire cases began to move back to their own Crown Court building in early October, freeing up further capacity. A further two trial courts were planned to be in use by the end of October 2020.
- 5.2 In order to facilitate jury trials, additional space was allocated for jury deliberation, such as the Judges dining area and other smaller court rooms. Smaller court rooms which were not deemed suitable for trial preceding during the period of Coronavirus restrictions were also brought into use for police, family and press. A further six smaller courts were adapted with new Perspex screens at the end of September.

- 5.3 Jury trial workloads in the Crown Court reached 896 in October 2020, which was in line with the pre-covid level (902). Non-trial courts continue to operate dealing with PTPH's, PTR's, sentencing, Proceeds of Crime Act (POCA) and mention hearings. These are operating at normal timescales making use of the Cloud Video Platform (CVP) and Prison to Court Video Link (PCVL). Two are also holding 'in-person' hearings which require deep cleaning between each case and managing approx. 6 – 8 hearings per day (4 in each court room).
- 5.4 The Nottingham Crown Court Manager is confident that, with the exception of self-isolation requirements on court users, current COVID restrictions should have little further effect upon local recovery plans, with court and tribunal service staff having keyworker status. The impact on other users, such as victim support and the witness service, however, remains a concern given the restrictions on available space and the availability of volunteers. To mitigate these risks consideration is being given to producing a virtual court visit video which could be shared with victims and witnesses ahead of pre-trial visits and trials.
- 5.5 Determination of the trials to be heard is at the discretion of the Resident Judge and the Listings Manager who currently meet weekly and review all CTL cases. High profile matters and cases where particular vulnerabilities are identified are being prioritised and reviewed for confirmed listings the following week. Recent developments to extend CTL timescales from 6 to 8 months will assist with listing and managing applications to extend, however there remains a risk that this could result in cases remaining in the backlog for longer periods.
- 5.6 The number of 'outstanding matters' in Nottingham's Crown Court saw a marginal (-3%) reduction between 22 March 2020 and 13 August 2020, largely due to limited transfer from the Magistrates Courts. By 4 October, however, the number of 'outstanding matters' had increased by around 4% as the backlog of Not Guilty hearings from the Magistrates Courts began to clear through the system.
- 5.7 It should also be noted that despite having the second highest volume of 'outstanding matters' in the midlands region, Nottinghamshire Crown Court saw the largest regional reduction in sitting days (-54%) and sitting hours (-46%) between w/c/ 22 March and w/c 4 October 2020. The nearest comparable regional Crown Court in terms of workload and backlog saw reductions in sitting days and hours of 18% and 21% respectively over this period.

Nottinghamshire Crown Court Workload

Court	22 March 2020			13 August 2020			4 October 2020		
	Receipts	Disposals	Outstanding	Receipts	Disposals	Outstanding	Receipts	Disposals	Outstanding
Nottingham	48	56	1,183	10	40	1,145	50	34	1,192

6. KEY ISSUES AND RISKS

6.1 A number of key issues and risks continue to impact upon the Courts Recovery Plan. These include:-

- **Victim and witness impact:** CJ partners recognise the adverse impact that court delays and adjournments can have on victim and witness engagement with the CJS, with victim and witness attrition known to increase with each subsequent delay. To effectively manage demand, each main trial listed in the Crown Court will also have 2-3 trials listed as 'backers/standby' which may go ahead should the main trial not proceed. Average caseloads per Witness Care Officer in Nottinghamshire have increased from 200 pre-COVID to 285, with the area having the highest number of live cases in the region (3,429) across both the magistrates and Crown Courts. Furthermore the impact of limitations to face-to-face services on CJ experience among all court users is not yet fully understood.
- **Increasing demand on the Crown Court:** The number of 'outstanding matters' in the Crown Court has been increasing since August as the backlog of Not Guilty hearings from the Magistrates Courts clears through the system. The true impact of the pandemic on the Crown Court is, therefore, not yet apparent.
- **Any potential changes to social distancing requirements** as a result of the second wave of lockdown may also impact upon estimated clearance dates and the ability to effectively accommodate other court users such as victim support and the witness service. Any future relaxation of these requirements, however, would significantly increase options available across the CJ estate.
- **Opportunities for the use of Nightingale courts:** Options for Nightingale courts have been explored across Nottinghamshire, including Hucknall Police station, however no suitable venue has as yet been determined. Use of the Justice Centre and Mansfield court houses remain under consideration.
- **Case adjournments** remain a blocker to listing new backlog cases, which is dependent to some degree on the capacity of the National Probation Service to complete reports at first hearing and prepare relevant parties.

- **Management of multi-hander cases** which require all jointly charged defendants and their representatives to be brought together at a single hearing where possible. Local and national pressures in facilitating these cases in the Crown Court are impacting significantly on the ability to progress a number of trials relating to serious and organised crime.
- **Availability of Legal Advice:** Nottinghamshire Magistrates' Court, like many others in the Midlands region, have struggled to recruit and retain Legal Advisors. Many new staff have recently been recruited and are undergoing training, after which point they will be able to operate courts alone. This should enable Mansfield courts to open and more GAP and NGAP slots to become available.
- **File quality:** CPS and police continue to highlight opportunities to further improve police file quality in order to release more capacity among CPS lawyers.

6.2 Key risks relating to the Courts Recovery plan are being monitored via the CJSSC risk register. Nottinghamshire Police continue are working to maximise the use of out of court disposals where possible in order to relieve pressures on the CJS. The Police are also working closely with the CPS to ensure that wherever possible, cases are close to trial ready at the point of charge.

6.3 At a regional level, a Joint agency court recovery group has been established alongside weekly HMCTS meetings and ongoing engagement with senior managers at regional level. Weekly CPS meetings are being held to discuss court listings and charging and areas are being encouraged to hold police meetings with local resident Judges to discuss issues and concerns. Local and regional issues are being raised at national level for support and guidance where necessary.

7. Financial Implications and Budget Provision

8. Human Resources Implications

9. Equality Implications

The Panel may wish to note the impact of audio/video technology, remote hearings and the Cloud Video Platform on court accessibility and the court user experience.

10. Risk Management

As outlined in section 6.

11. Policy Implications and links to the Police and Crime Plan Priorities

The Courts Recovery plan has direct links to and implications for a number of Police and Crime Plan ambitions, most notably:-

- Improving victim journey, including experience of and satisfaction with the police and criminal justice system
- Strengthening links with regional Criminal Justice Board in order to improve the performance and efficiency of CJS for victims and witnesses.
- Ensuring Police and other CJ partners are fully compliant with the 'Victims Code'

12. Changes in Legislation or other Legal Considerations

None

13. Details of outcome of consultation

None

14. Appendices

15. Background Papers (relevant for Police and Crime Panel Only)

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