

Briefing from the Victims' Commissioner for England and Wales

Courts and Tribunals Bill: Second Reading

About the Victims' Commissioner

The Victims' Commissioner, Claire Waxman OBE, is an independent voice for victims and witnesses, championing their interests and holding the government and criminal justice agencies to account.

As Victims' Commissioner, Claire's duties include reviewing the [Victims' Code](#) and monitoring how agencies comply with their obligations under it. Claire regularly engages with stakeholders across the criminal justice landscape to promote good practice and scrutinise victim policy and the services victims receive. The Commissioner also regularly meets with victims, survivors, and bereaved families to help inform these conversations.

The Courts and Tribunals Bill

"The Courts and Tribunals Bill give us a rare legislative opportunity to confront this backlog crisis. Parliament must make sure these reforms work in practice. If not, we risk preserving a status quo that leaves victims trapped in limbo and trauma and public confidence in justice at breaking point."

– Claire Waxman OBE

The Victims' Commissioner wants to see the Bill deliver meaningful improvements for victims by:

- **Effectively tackling the Crown Court backlog**, so victims can access timely justice and are not left facing years of prolonged uncertainty.
- **Improving victims' experience of the court process**, ensuring they can access the measures they need, that these work effectively in practice, and that proceedings are fair and trauma-informed.
- **Strengthening accountability and oversight**, so inefficiencies are identified and addressed swiftly, and victims' experiences are a core measure of court performance and effectiveness.

As the Courts and Tribunals Bill enters Second Reading in the House of Lords, we ask that Peers consider the profound impact of the Crown Court backlog on victims, assess whether the Bill's provisions are sufficient to meaningfully reduce delays, ensure that adequate resources are available for delivery, and explore additional measures to improve victims' experiences of the court process.

The Backlog – beyond the statistics

The Crown Court backlog has reached yet another record high as it now nears 81,000 cases¹, with some trials now listed as far ahead as 2030² and projections suggesting it could reach 200,000 by 2035³ without intervention.

¹ [Criminal court statistics quarterly: October to December 2025 - GOV.UK](#) 80,829

² [Victims facing 'inhumane' delays for justice as courts crisis mean dozens of trials listed for 2030 | The Independent](#)

³ [Modernising Justice: Criminal Courts Reform | Ministry of Justice](#)

Behind these record figures are thousands of victims and bereaved families bearing the human cost of delay. As Peers scrutinise the Courts and Tribunals Bill, their experiences must remain at the forefront of the debate.

At the end of June 2026, almost a third (29%) of all outstanding cases at the Crown Court remained open for over a year, with 35% of all outstanding rape cases remaining open for a year at the end of March 2026.

For victims, these lengthy, sometimes years-long delays prolong uncertainty, compound their trauma, impede recovery, and can leave them fearing for their safety for longer. Navigating the justice process has become an endurance test, with victims expected to carry the impact of trauma for years while awaiting trial.

Baroness Newlove's report [Justice delayed](#) highlighted the profound impact of the backlog on every aspect of victims' lives⁴, including the significant impact on their mental wellbeing and confidence in the criminal justice system.

"I'm 30 now and I was 25 when I reported. I feel like I can't remember the second half of my 20s. The only memory I've got of the second half of my 20s is going through the court system because that's all you can think about and your life gets put on hold... literally it's like I woke up one day and I'd lost five years of my life." – Victim, Justice delayed report.

"I've never suffered with mental health illnesses or anything like that in my whole life. And when that delay happened again. I always say, it was the first time in my life, where I felt like, do you know what? I don't wanna be here." – Victim, Justice delayed report.

Delays also undermine the quality of evidence itself. Over time, memory can fade, the quality of evidence can deteriorate, and witnesses may disengage.

"It's difficult because actually, your memory fades... in terms of the little details and the things that they're trying to put you up on, you don't remember everything perfectly four years on." – Victim, Justice delayed report.

Claire Waxman's [London Victim Attrition Review](#) also highlighted the length of delays as a factor in victims withdrawing from the justice process altogether.

"The consequences of court delays extend far beyond the courtroom. When victims are forced to wait years for justice, many lose confidence and disengage altogether. That means fewer prosecutions, fewer convictions, and greater risk that dangerous offenders remain in our communities. Court backlogs are not simply an administrative problem, they are a direct threat to victim and public safety." – Claire Waxman OBE

The court backlog cannot be viewed in isolation from wider pressures across the criminal justice system. Delays increase pressure on the prison population, with around 20% of prisoners held on remand, and leave some defendants on bail in the community for longer while awaiting trial. This can prolong risks to victims and the wider public, particularly where breaches of bail conditions intended to protect victims are repeated without effective enforcement or consequence⁵.

At the same time, prison capacity pressures have driven the earlier release of sentenced offenders. For victims, this creates a troubling contradiction: they can wait years for justice, only to see some offenders spend less time in custody than they expected. It is unsurprising that some victims are questioning whether justice is worth the wait.

⁴ [Justice delayed](#)

⁵ [Met dealing with 100 tag breaches every day](#)

For victims, the stakes could not be higher. Peers must therefore scrutinise whether the Bill will deliver faster justice, reduce unnecessary trauma, and restore confidence in the criminal justice system.

Is the package of reform enough?

Justice delayed is justice denied. The Government has acknowledged that reducing the Crown Court backlog requires structural reform, not simply investment and efficiency measures.

The current caseload in the Crown Courts is not sustainable. Over 4,000 cases proceed to the Crown Court solely because the defendant elected jury trial⁶, creating avoidable pressure. There are concerns that defendants may exploit this right in light of delays, knowing they increase uncertainty and distress for victims, diminish recall, and heighten the risk of withdrawal, particularly in cases of interpersonal violence and/ or abuse⁷. **Mode of trial decisions should rest with the judiciary, ensuring Crown Court resources are reserved for cases that require them.**

As part of wider efforts to reduce pressure on the courts and tackle the backlog, **introducing a permission stage for appeals from the Magistrates' Court will help ensure that scarce court resources are focused on appeals that raise an arguable legal error or injustice.** The proposal would not remove the right of appeal but introduce a filter to prevent defendants from appealing convictions without grounds, as is the case in the Crown Court. Because the Magistrates' Court is not a court of record, an appeal currently triggers a full rehearing, even where the grounds are weak. This can consume valuable court time and cause significant distress to victims, who may be required to relive traumatic experiences and face the perpetrator again in court. Recording proceedings would reduce unnecessary re-hearings, improve access to transcripts, and support wider efforts to reduce court delays. This protects victims from defendants using the system to perpetrate further abuse by lodging an unmeritorious appeal which results in the victim having to attend a re-trial.

Taken together, these reforms represent sensible steps to reduce unnecessary demand on the courts while maintaining appropriate procedural safeguards.

With key proposals for a new Crown Court Bench Division (Clause 3 at House of Commons Report Stage) now removed from the Bill, despite government previously stating this measure would be necessary to reduce delays, **the Government must demonstrate that the remaining reforms are sufficient to deliver the promised reduction in Crown Court demand and put the backlog on a sustained downward trajectory.**

Clear targets, robust accountability, and proper resourcing will be essential. Government must ensure that efforts to reduce pressure on the Crown Court do not simply shift delays and pressures elsewhere in the justice system, including the Magistrates' Courts. The Magistrates' Courts must be equipped with the resources and expertise needed to ensure these reforms deliver in practice. A crucial element of this is recruiting additional District Judges to hear the more complex cases that will remain in, or be transferred to, the Magistrates' Courts.

Success should ultimately be judged by whether victims can access justice within a reasonable timeframe, through a process that supports their participation and confidence, without further trauma or delay.

⁶ committees.parliament.uk/oralevidence/16995/pdf/

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Gaps in the current reform package

To strengthen the reform package, the Victims' Commissioner recommends the following measures to support the reduction of delays and improve victims' experiences:

- **Reinstate an independent Courts Inspectorate** to provide robust oversight of Crown Court and Magistrates' Court performance, identify systemic inefficiencies, and assess how effectively courts deliver for victims.

The Inspectorate should assess how effectively courts support victims throughout the justice process, including the extent to which trauma-informed approaches are embedded in court practice. It should also review court facilities, scrutinise performance data, identify systemic shortcomings, and drive greater transparency and accountability across the courts.

Victims' experiences should be a key measure of performance, including how effectively HMCTS and partner agencies deliver Victims' Code rights. With powers to make recommendations requiring a formal Government response, the Inspectorate would help ensure that persistent problems are identified and addressed, rather than allowed to become entrenched.

- **Introduce automatic entitlement to “standard” special measures for eligible victims** to remove unnecessary barriers, reduce administrative burdens, and provide greater certainty that appropriate support will be in place ahead of trial.

Aligning with the Scottish approach⁸ and the Law Commission recommendation⁹, this reform would help ensure support is the default rather than something victims must repeatedly justify. Victims and witnesses should, where they make an informed request, have automatic access to what we refer to as “standard” special measures, including screens, live links, removal of wigs and gowns, evidence in private, and support while giving evidence. The Commissioner would also like to see pre-recorded cross-examination automatically granted for eligible victims. Legislative change must be supported by clear information for victims and sufficient court capacity to ensure these measures are consistently available in practice.

Automatic entitlement would strengthen delivery of the Victims' Code, reduce delays associated with applications, free up court time, and improve consistency of access.

- **Extend CPS powers to discontinue cases in the Crown Court up until trial** to improve efficiency, avoid unnecessary hearings, and bring Crown Court procedures into line with those in the Magistrates' Court.

The reform would ensure that victims have access to an effective remedy where a Victims' Right to Review (VRR) identifies an incorrect prosecution decision. Once the CPS offers no evidence in the Crown Court, proceedings cannot currently be reinstated, even where a review finds that the original decision was wrong. As only a small proportion of VRR decisions are overturned, use of this power would remain limited.

Extending the power of discontinuance would allow cases to be reopened following a successful VRR, ensuring the scheme provides a meaningful remedy in practice. It would also reduce the need for hearings held solely to offer no evidence, freeing up court time and reducing unnecessary costs. By providing a clear statutory mechanism to correct errors, the reform would strengthen confidence in the VRR scheme and improve access to justice for victims.

⁸ [Simplified notification procedure for standard special measures for vulnerable witnesses | Scottish Courts and Tribunals Service](#)

⁹ [Law Commission - Evidence in sexual offences prosecutions: a final report](#)

Beyond the Bill: Procedural Justice

Reducing the backlog is essential, but timeliness alone will not deliver a justice system that works for victims. For many victims, justice goes beyond securing a conviction. It is also about feeling heard, believed and protected, being treated with dignity and respect, and having a meaningful voice in the process. This is often referred to as procedural justice.

The Bill takes welcome steps to address some of the challenges victims, particularly victims of rape and sexual offences, face during cross-examination and to provide greater clarity around special measures (Clauses 7-15). **However, improving victims' experiences requires wider systemic change to ensure their needs are consistently understood, recognised and met throughout the justice process.**

Many of the issues victims face in the courts persist. Victims often report feeling ill-prepared for the court process, unsafe and unprotected in court buildings, and re-traumatised by cross-examination, with some feeling as though they are the ones on trial. Rape myths and misconceptions also remain a concern, with police officers, prosecutors and barristers reporting that these continue to influence jury decision-making¹⁰.

With cases now being listed as far ahead as 2030, implementation not expected until 2028, and the backlog not projected to approach pre-pandemic levels until 2035, victims cannot be expected to wait for longer-term reforms before seeing improvements. **There is an urgent need to improve victims' experiences within the existing system while wider structural reforms take effect.**

The Bill's passage through Parliament provides an opportunity not only to consider legislative reform, but also to challenge the absence of a coordinated, trauma-informed approach across the courts and press for practical improvements to victims' experiences within the existing system.

This must include ensuring victims receive their rights under the [Victims' Code](#), holding agencies to account for delivery, embedding trauma-informed practice, and ensuring victims are treated fairly, kept informed and able to participate meaningfully throughout proceedings.

Sustained investment in victim support services will also be critical. These services not only help victims cope and recover, but support them to understand and navigate the justice process, remain engaged, and ensure their needs and views are heard.

Delivering this will require coordinated action across the criminal justice system to improve communication, identify and respond to victims' needs, and ensure access to appropriate support throughout the justice process.

To request case studies demonstrating the impact of court delays and the court process on victims, please email victims.commissioner@victimscommissioner.org.uk. Please also do get in touch if you would like to explore any of our amendments further.

¹⁰ [City Research Online - 'End-to-end' Soteria pilot study: Findings and recommendations](#)