



Opinion

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# The Impact of Measure Post Covid on the Criminal Justice System to Reduce the Backlog of Cases

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## Abstract

The impact of covid has resulted in frustrating further many areas of the British Justice System in particularly that of the Criminal Justice System. An already cumbersome system, which suffered from a massive back-log was exacerbated further resulting in inadequate measure and resources being used, which has even questioned the virtue of rehabilitation with the UK's Criminal Justice system and the liminality that occurs within it. This practitioner insight gained from a duration of twenty plus years is envisaged to highlight the erroneous existing cracks in the system, will be revealed in conjunction with a narrative outlining how the frustrations within the system could potentially be alleviated. Furthermore, the main factor uncovered to have exacerbated problem is the introduction of new system without sufficient user trial or testing which has made the system even more cumbersome and inadequate. The paper concludes by arguing that the frustrations in the system can be alleviated by returning to a more traditional model of policing, a streamlining of procedure and stakeholders being responsible for the cases they execute.

## Opinion

The author writes this account for a prescriptive of practicing Solicitor Advocate with a career in which many high-profile criminal cases have been defended. The ethnographic account of procedural inadequacies in the system will provide a real insight into the legislative reality. The on set off the Covid pandemic resulted in The Ministry of Justice allocating more funds to the Criminal Justice System (CJS) in order to reduce the burden on an increasingly pressurised system [1]. However, it is questionable if such measures are sufficient and if they would have the desired outcome. As it may not warrant more money being thrown at the problem but rather a more robust investigation into the actual route causes. Indeed, it is important to acknowledge that CJS comprises of many areas the procedural approaches and systems in one area such as Crime are not necessarily apparent with others such as the Youth Offending Team who were acknowledged as coping well during pandemic [2].

The current procedure within the UK comprises of Police arrest suspect then the suspect is booked into the custody suite where a custody record is created. Officers' then conducts the investigation after which they call the solicitor. A solicitor is then allocated to the suspect and then an interview is arranged. The police officers

speaks the to Custody Sergeant and in most cases they have to submit a file for a charging decision to the Crown Prosecution Service (CPS). The CPS then informs the investigating officer if the suspect will be charged, bailed or released under investigation pending further enquiries or no further actions.

If charged the case goes to court this can be on remand from custody or on bail. If it is a case to be heard in the Magistrates Court in which case the defendant is required to enter a plea of either guilty or not guilty. If the defendant pleads guilty the case moves onto sentence. However, if the defendant pleads not guilty the case progresses to trial and a further hearing is required for a contested hearing with all witness evidence being heard. A similar process exists in the Crown Court. The first hearing in the Crown Court case is a plea hearing at which the defendant enters either guilty or not guilty, if the defendant pleads guilty it is moved to sentence and if it is not guilty plea a trial date is fixed.

The overview of the procedures is presented in a highly romanticised manner. The system is actually riddled with a series of procedural and administrative inaccuracies which makes the entire process problematic sure to an epidemic of delays. After the Police



have arrested the suspect in reality there is a delay from custody suite in booking suspect on the system after which there is a log from the defence solicitor call centre in allocating the case to the defence solicitor. This is often met with another delay in the custody suite often not having the manpower to answer calls and so the solicitor is unable to get update on the progress of the investigation and this is crucial as the police have to show whilst the suspect is in their detention matters are dealt with expeditiously and PACE is being complied with. This in term then has a knock-on effect result in a wait by the custody suite in allowing the police interview to take place.

The Custody staff could be more proactive in chasing the interviewing officer for police interview, currently a lot depends on the attitude of the custody clerks and the custody sergeant which can result in the suspect being neglected at the police station (not able to get drinks/medical attention). The instance of lack of evidence due to ill preparation of the police file and handover of the case from one police officer to another can also cause delay and also lack of resources to investigate whilst detainee is in police custody. Police officer are having to complete the digital system for interview manually which no longer populates the information from the custody record also cause delay as the correct code for the offences must be inputted.

In practioners reality it is apparent that within some interview rooms the digital interview recording facility do not work or there are more suspects being ready for interview than the number of interview rooms available therefore it is common practice to have to wait for one to be free. The new digital system does not populate the information from the custody record - this takes lot more time to input, the system often is slow or does not work and the inputting of information can take a while. The instance of the Crown Prosecution Service needing to review police file to ensure that the file is complete before charging decision made, results in an incomplete prosecution file causing delays in courts and preventing suspects from entering plea at the earliest date. Following the suspects arrest the investigation process can take in some instances in excess of three years to charge and then to appear in the Magistrates Court making the first appearance [3]. This delay is prejudicial to the suspect if he/she was a youth at the time of the allegation and then becoming an adult by the time the case proceeds to court, result in affecting the particular procedures, processes and sentencing on conviction [4].

Due to the custody suite being under resourced, staff lacking training on PACE and not having sufficient police systems in place results in a subsequent series of delays of which frustrates all stakeholders. These intervals include delay from custody suite in booking suspect on the system, this intern results in a delay in the call centre in allocating case to the defence solicitor and subsequently obtaining an update on charge process. The instance of the custody staff not chasing police officers for the interview also results in long pauses in proceeding/processing with the suspect in custody. This occurrence in conjunction with the new CJS digital system for interview, which is prone to crashing, no longer populating the infor-

mation from custody record necessities Police officers having the time in put all data manually has to be inputted in conjunction with finding a interview room in which the recording facilities actually work. This could result in the detention exceeding the statutory 24 hours (extended to 36 hours by a senior officer if needed) from the time of arrival at the police station [5].

The consequence of such quagmire in the custody suit on the suspect can be very detrimental and, in some instances, also be a direct impingement on their human rights [6]. The neglect of suspect in custody included access to medication, food/ water and even being released without charge and which has been reported as affecting mental health, family life and even employment status [7].

The instance of the case being brought to trial is also riddled with unnecessary lapses, the instance of the Crown Prosecution Service needing to review police files in order to ensure that the file is complete before charging decision made. The continual appearance of incomplete prosecution file causes delay in courts [8] and prevents defendant from entering plea before a Judge at the earliest date and contributes to heightening the backlog. At trial there has been number of complaints against judges being biased in favour of prosecution and giving the defence advocates telling off in court, resulting complain and more timely delays [9]. Bringing about a situation in which the crisis in the courts that existed before the pandemic, was heightened as a consequence [10].

In an attempt to reduce this the Ministry of Justice has undertaken a series of measures including recruiting 4000 new Magistrates in 2022 [11] and securing millions in treasury funding to reduce build up by that of 53000 cases in March 2025 [12]. However, with 359,261 cases still outstanding in the Magistrates Court, it could be questioned if these measures are sufficient. Suggesting that that there is still not enough court personnel to process possible incarceration [13].

The custody and court system being riddled with over-capacity and complemented with inefficient procedural system is also reflected in the prison system in the UK. An exploration into the carceral geography (research into practices of incarceration), examining the link between liminality, holding space of incarceration and the associated emotional impact on stakeholders (Families, Staff and Detainees). Reveals that there is a crisis of over population in the prison service and under staffing, resulting in a lack of any rehabilitation [14] and reform being obscure notions of bygone age [15]. Indeed, the likes of [16] advocated that Covid exasperated the problem to a situation in which the incarceration of prisoners in the UK could also be construed as an erosion of their civil liberties. It was uncovered that prisoners were found to have received no rehabilitation and spent an average of 22.5 hours a day in a cell. The situation post pandemic is still seriously inadequate, despite £400 million being spent on trying to improve the prison system [17].

The overview of this narrative reveal that the CJS the UK is riddled with many inadequacies which affects all stakeholders. One could argue that instead of the government wasting money on bureaucracy and administration which is not reducing the burden of

cases in Magistrates Court or Crown Court, it would be more advisable to invest in the Policing System in the UK [18-24].

The police need money being invested in order to increase the number of police officers so that there are more officers visible and to act as deterrent to crime. In conjunction with the necessity of Police Officers to attend schools especially at secondary level to inform and converse with students on crime and in the consequences of criminality. If the root cause is alleviated, then it could have the potential to reduce crime the virtue of which would be less of a burden to the CJS. The police also need more training to better investigate/better interviewing skills so that robust and thorough files are being prepared before being handed to the CPS, for them to decide whether there is sufficient evidence to charge/bail/release under investigation/charge or caution the suspect. At present cases in particular domestic violence allegations are charged prematurely causing delays and the length of a case history can be a lot longer than the usual process. Hence, the consequence of more comprehensive files being prepared by the police and cases only being charged once a complete thorough file is submitted is that there would be a reduction in the delay in cases moving effortlessly from one hearing to another within the courts. The custody clerks need better training and understanding of PACE to ensure that matters are dealt with expeditiously and more importantly custody record and detention log is appropriately completed and updated.

The Crown Court also need to be more efficient hence some streamlining of procedures is warranted. This could be via the time the case is listed for first appearance (plea trial/plea hearing), all prosecution evidence should be served so that the defendants can plead at the earliest opportunity, there is no need to hold back on service of evidence. At the moment at the plea stage there is usually a case summary and a few statements available which is arguable unwarranted in a situation in which a reduction in activity is needed. There is arguably a need for barristers and indeed Judges to take more ownership of the cases they are involved in. In some cases, for both defence and prosecution barristers do not have ownership, and so do not have the ability to investigate cases properly in advance of hearings. If more time is given, then efficiencies can be gained as defendants can plead to alternative offences simultaneously therefore reducing the burden of an additional trial slot.

The practitioners experience also indicates that Judges need to work more closely with the representatives from solicitors to the advocates. Recently there has been number of complaints against judges being biased in favour of prosecution and giving the defence advocates telling off in court. Some judges attend morning hearing late and ill prepared again causing delay to the courts case list. Judges need to have quarterly meetings for court users to ensure all parties are working together to ensure immediate justice. The overall findings of the investigation lead one to recommend that the introduction of any new initiatives and or systems must be introduced in a piecemeal fashion with user trials and feedback from stakeholders using the new systems being fully implemented before overall changes are made.

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## Conflict of Interest

None.

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