



Delivering *Simple, Speedy, Summary* Justice

CRIMINAL JUSTICE SYSTEM



Ministerial Foreword

I write on behalf of all my ministerial colleagues involved in the “Criminal Justice: *Simple, Speedy, Summary*” review.

Crime, and the fear of crime, is a critical concern for people. The criminal justice system is there to fight crime. Its purpose is clear: to reduce crime, and to protect the public.



The criminal justice system has significantly improved in the past few years bringing more offenders to justice and significantly reducing the number of ineffective trials. The orders of the courts are being more effectively enforced. We have introduced more problem-solving courts dealing with anti-social behaviour, domestic violence and drugs. The community justice centre in Liverpool has shown how courts can connect more effectively with the public.

But we know from talking to judges and stakeholders, and to the public, there is more to do.

We have been focusing on practical measures to improve the effectiveness and efficiency of the criminal justice agencies when cases are brought to court. Working with the Home Secretary, the Attorney General and criminal justice ministers, I have chaired a steering group for the review – entitled “**Criminal Justice: *Simple, Speedy, Summary***” to examine how we can further improve criminal justice. Lord Goldsmith, the Attorney General, has made a huge contribution to improving the criminal justice system over recent years, as has Baroness Scotland. Together, we have developed practical measures which stakeholders can deliver.

The measures come from detailed case analysis conducted by criminal justice practitioners and are a combination of new ideas and proposals to build on best practice of what we know is working well to deliver justice in our communities.

We are committed to working with the judiciary to deliver these changes in the magistrates’ courts and Crown Court. We recognise the key role they have to play in ensuring that court orders are complied with and that cases are dealt with effectively.

Magistrates demonstrate a huge commitment to public service and to making their communities better and safer places to live. They are a permanent part of our justice system.

The judiciary have always been keen to achieve a more efficient court system within the general context of the administration of criminal justice. The new Criminal Procedure Rules and the judicial protocols have laid a firm foundation on which to build. The judiciary have made it clear that they will continue to work with Department for Constitutional Affairs, Her Majesty's Court Service and other criminal justice agencies to lead the improvements to the operation of the criminal justice system and the courts.

Our vision is to deliver a criminal justice system that is:

Simple: dealing with some specific cases transparently by way of warning, caution or some other effective remedy to prevent re-offending without the court process.

Speedy: those cases that need the court process will be dealt with fairly but as quickly as possible.

Summary: a much more proportionate approach still involving due process – for example dealing with appropriate cases the day after charge or during the same week (which would be a change in the way that cases are currently dealt with in the magistrates' court).

For the public these measures will mean the criminal justice system, and in particular the courts, will be more responsive to concerns raised by local communities. The criminal justice system will connect with the public it serves. The criminal justice system will deal speedily and effectively with low-level crime with a range of sanctions that the community can demonstrably see being enforced from immediate penalties to community punishments to prison. The rules of society must be seen to be enforced effectively and proportionately.

Working together, the criminal justice agencies can continue to improve and meet the challenges to ensure we provide a service that is focused on reducing crime and improving public confidence in criminal justice.

A handwritten signature in black ink, consisting of the name 'Charlie' on the top line and 'Falconer' on the bottom line, written in a cursive style.

Rt Hon Lord Falconer
Secretary of State for Constitutional Affairs
and Lord Chancellor

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Executive Summary

The “Criminal Justice: *Simple, Speedy Summary*” review’s main findings are focused on ensuring that we take practical measures to improve the criminal justice system for the public. The purpose of the review has been to look at the proportionality of the criminal justice system and ensure that it deals speedily and effectively with low-level crime whilst at the same time having the ability to manage more complex serious criminal cases. It is also imperative that the Government secures value for money from public funds spent on criminal legal aid and a number of measures in this report build on the recommendations made by Lord Carter’s Review of Legal Aid Procurement.

The practical proposals outlined in this report include:-

- improving the speed and effectiveness of the magistrates’ courts;
- improving performance in the Crown Court;
- focusing on the management of very high cost cases in the Crown Court;
- implementing measures to improve the compliance and enforcement of court orders;
- extending the community justice approach to ten new areas; and
- moving more low-level offences out of the magistrates’ courts.

The National Criminal Justice Board, working with the judiciary, will govern the implementation of these proposals. In implementing them we will work with key stakeholders to deliver them as effectively as possible and to enhance confidence in the criminal justice system.

The measures outlined in this report focus on:-

(i) Improving the speed and effectiveness of magistrates’ courts cases

The magistrates’ courts deal with 95% of the criminal cases in this country. The contribution that magistrates make to their local communities is vital. We will work with the judiciary to:

- Introduce an improved management structure in the magistrates’ courts to take responsibility for the judicial management of the caseload and performance of the court;
- Stream-line case management procedures in four areas to reduce the overall time between arrest and conclusion;

- Pilot the concept of “next day justice” to challenge the notion that justice is slow, focused on taking specific offences such as shop theft, quality of life crimes, domestic violence and breach of court orders to courts between 24 to 72 hours after the offence was committed;
- Implement live links in London between the police station and the court for guilty pleas to be dealt with at charge in low-level offences (subject to legislation); and
- Pilot the concept of “courts on the move”, taking courts back into communities for example by setting up occasional courts in a town hall or community building for quality of life crimes.

Our ambition is that over time **these will deliver:-**

- A reduction in the number of hearings in most cases, from an average of between 5 and 6 to an expectation of one (for guilty pleas) and two (for contested cases); and
- The majority of simple cases taking from a day to 6 weeks from charge to disposal, as opposed to the current system which averages 21 plus weeks.

(ii) Improving timeliness in the Crown Court and removing unnecessary procedures

The Crown Court considers the more complex and serious cases. The current target is for 78% of committed cases to be commenced within 16 weeks – we have never hit this target in every court. The best performing Crown Court currently delivers an overall average waiting time of 10 weeks with a performance of 88% against current timeliness targets. Our aim is to improve performance in all Crown Courts.

We will work with the judiciary to:

- Implement nationally best practice for more effective preliminary hearings;
- Deal more effectively with early guilty pleas; and
- Eliminate unnecessary pre-trial hearings – there are approximately 200,000 so-called ‘mention hearings’ a year in the Crown Court, many of which are unnecessary.

Our ambition is that over time **this will deliver:-**

- A reduction in the time taken so that most cases are commenced and dealt with within 16 weeks; and

- A reduction in the number of pre-trial hearings from an average of 6 to no more than 2 (i.e. the Preliminary Hearing and the Plea and Case Management Hearing) in most cases, except for complex and difficult cases.

(iii) Measures to deal with Very High Cost Cases

The top 1% of Crown Court cases take up a disproportionate share of criminal justice resources (accounting, for example, for half of the relevant legal aid spend). Criminal justice agencies, the judiciary, and the High Cost Cases Review Board, have put measures in place to tackle the very high cost of these cases (lasting 40 days or more), ensuring effective case management and operational oversight of cases on an individual, regional and national basis. In addition we will work with the judiciary to:

- Consult on the Carter Review's proposals on controlling defence work in very high cost cases;
- Strengthen the judiciary's power to manage long and complex trials;
- Enhance the training provided for judges managing long and complex trials; and
- Closely monitor the progress of ongoing very high cost cases.

(iv) Extending the Community Justice programme to focus on making the courts more responsive to the public

We will be extending community justice principles to ten new areas, using an intelligence-based approach based on indices of crime, social deprivation, diversity and confidence linked to Respect Action Areas.

(v) We will deliver a more effective enforcement system through the introduction of the National Enforcement Service, which will be rolled out nationally from April 2007

(vi) We will deal more effectively with a wide range of low-level offences outside the courtroom by:-

- Developing a matrix of cases for an open debate with the judiciary and the public about which cases should be dealt with by the criminal justice agencies using powers outside of the court process and those where it essential for the courts to be involved;
- Removing around 500,000 cases from local courts by introducing a range of measures including bulk processing for non-contested cases such as TV licences and minor motoring offences;

- Rolling out conditional cautions, allowing punitive conditions (for example, fixed fines and unpaid work) to be placed on cautions by April 2008 (subject to legislation);
- Legislating to create an equivalent Conditional Cautioning scheme for youth cases;
- Look at extending referrals to alcohol counselling; and
- Developing proposals on extending summary powers and pre-court remedies for low level and anti-social offending.

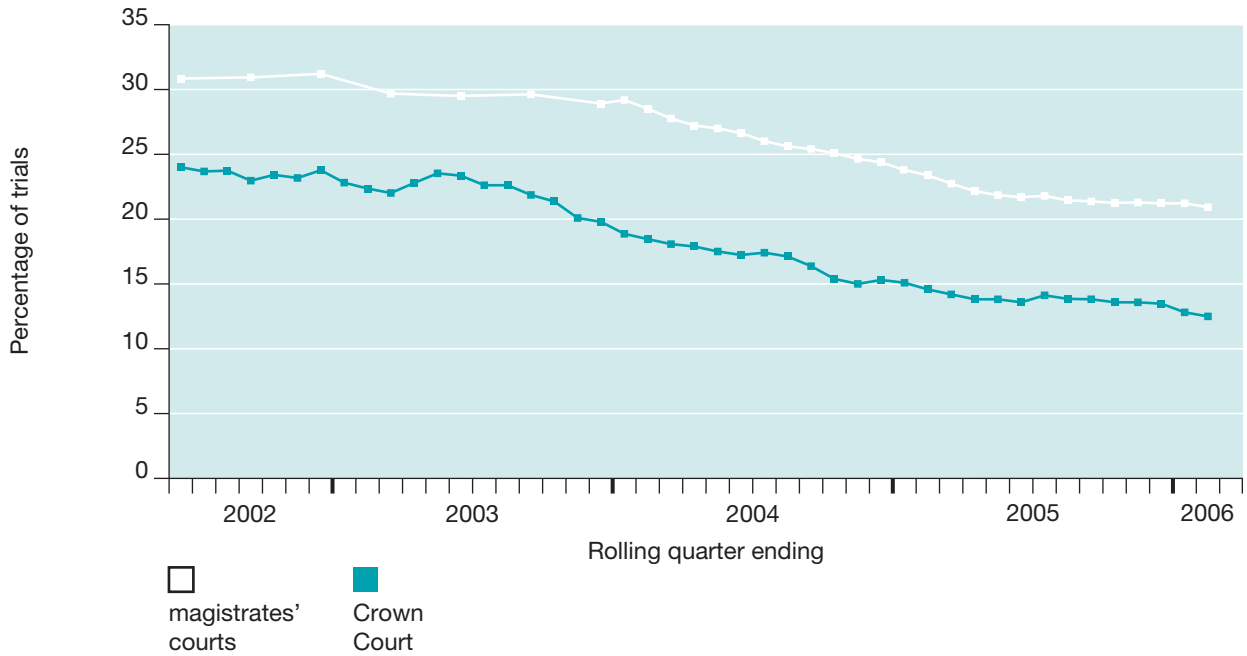
1. The current system

1.1 The aim of the review was to examine how all the agencies involved in delivering courts-based criminal justice contribute collectively to the overarching objectives of the system, namely protecting the public and reducing crime.

1.2 We have achieved a number of significant improvements to the criminal justice system in the past few years, including:-

- bringing 1,272,000 offences to justice in the year ending December 2005 – a 27% increase on the year ending March 2002 when the figure was 1,002,000;
- working with the judiciary and magistrates to reduce significantly the number of ineffective trials in both the Crown Court and magistrates' courts. From August 2002 to May 2006, we reduced the magistrates' courts ineffective trial rate from 30.9% to 20.3% and in the Crown Court from 23.8% to 12.5% (see **figure A**);
- more effective enforcement of court orders. Cash collection of fines increased from £120 million in 2002/03 to £149 million in 2005/06. The national payment rate currently stands at 83%;
- introducing problem-solving courts dealing with anti-social behaviour, domestic violence and drugs;
- bringing the Crown Court, county courts and magistrates' courts together in a single organisation, Her Majesty's Courts Service, focussed on public service delivery;
- transforming the Crown Prosecution Service into an organisation focussed on public service and the needs of victims;
- legislating to change the substantive law to improve court process and rules of evidence in favour of victims; and
- improving the management of cases and delivery of justice, through more effective charging processes, case progression and support for witnesses, supported by a Criminal Case Management Framework setting out for the first time the roles and responsibilities of all the players in the system.

Figure A Ineffective Trial Rates – magistrates courts and Crown Court June 2002 to March 2006

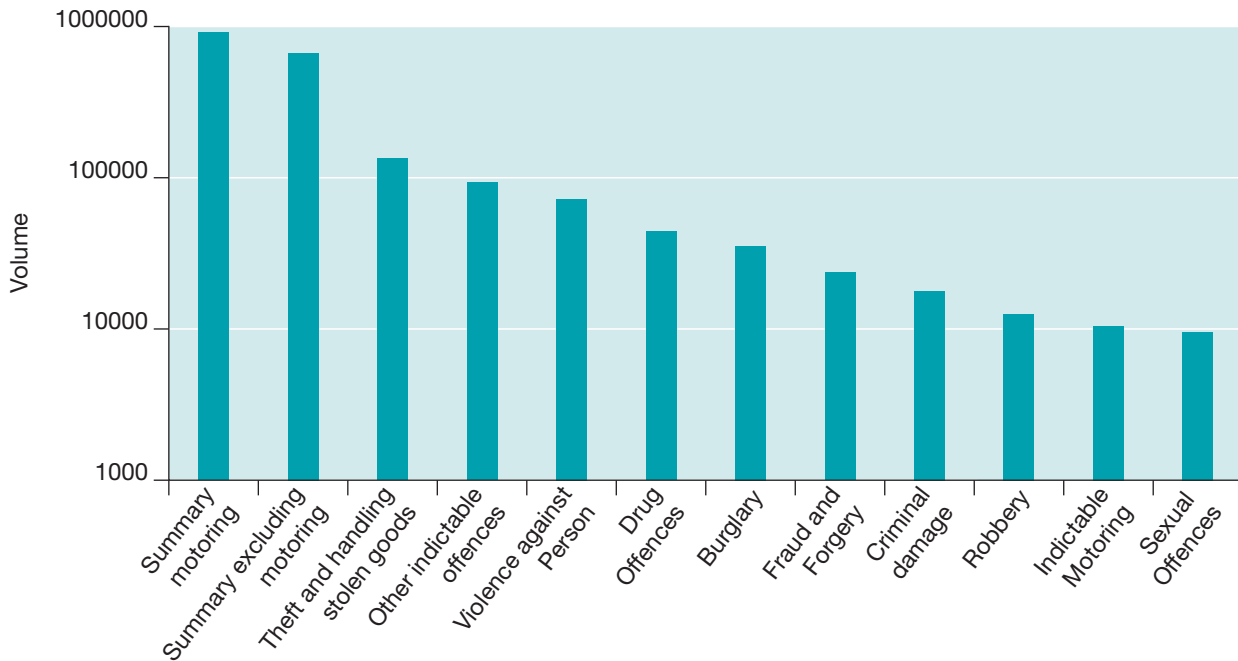


Source: PSA1 monitoring data, Performance Directorate, DCA.

Court-based criminal justice

- 1.3 The courts system in England and Wales, including the magistrates’ courts and the Crown Court, are administered by Her Majesty’s Courts Service. The courts are the places in which the work of all the criminal justice agencies comes together. All criminal cases must begin in the magistrates’ courts, which hear the less serious ‘summary cases’ such as common assault or motoring offences as well as some ‘triable either way’ cases such as theft. The Crown Court hears serious ‘indictable only’ cases such as murder or serious sexual offences, as well as those ‘either way’ cases where the defendant opts for jury trial.
- 1.4 Currently the magistrates’ courts deal with approximately 2 million cases per year: some 95% of all criminal cases. The overwhelming majority of these are summary offences, of which approximately two thirds are motoring offences. Figure B shows the breakdown of magistrates’ courts cases by offence type. Case volumes have risen by roughly 3% per annum from a low point in 2001. But looked at over a longer period, volumes have been broadly stable. Within this overall trend, however, there has been recent sharp growth in summary cases and a fall in the proportion of more serious indictable cases.

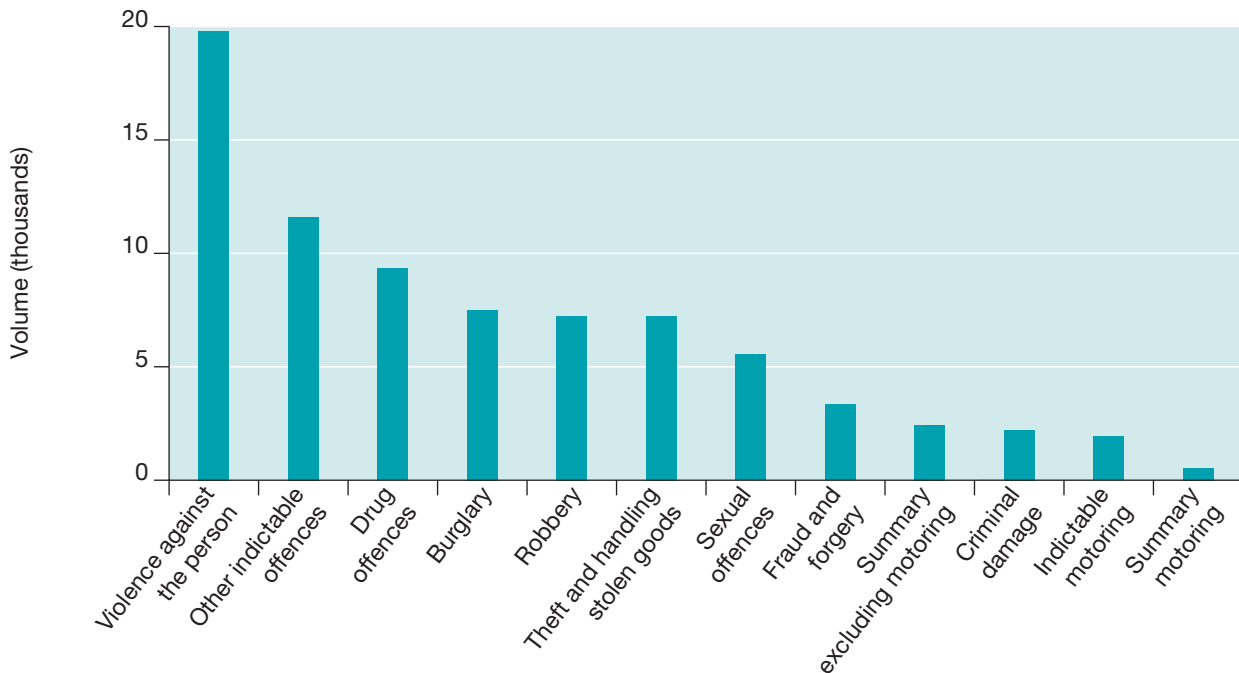
Figure B Defendants proceeded against at magistrates' courts by type of offence (calendar year 2004)



Data from Criminal Statistics 2004, Home Office publication

1.5 Only 5% of all magistrates' courts cases proceed to the Crown Court, which receives in the region of 80,000 cases per year. Figure C shows the Crown Court caseload by offence type. Case volumes in the Crown Court have grown slightly over the last couple of years, but looked at over a longer period are broadly flat. By contrast expenditure has been rising by approximately 12% per annum in recent years, largely driven by increasing costs of criminal legal aid.

Figure C Defendants proceeded against at Crown Court by type of offence (calendar year 2004)



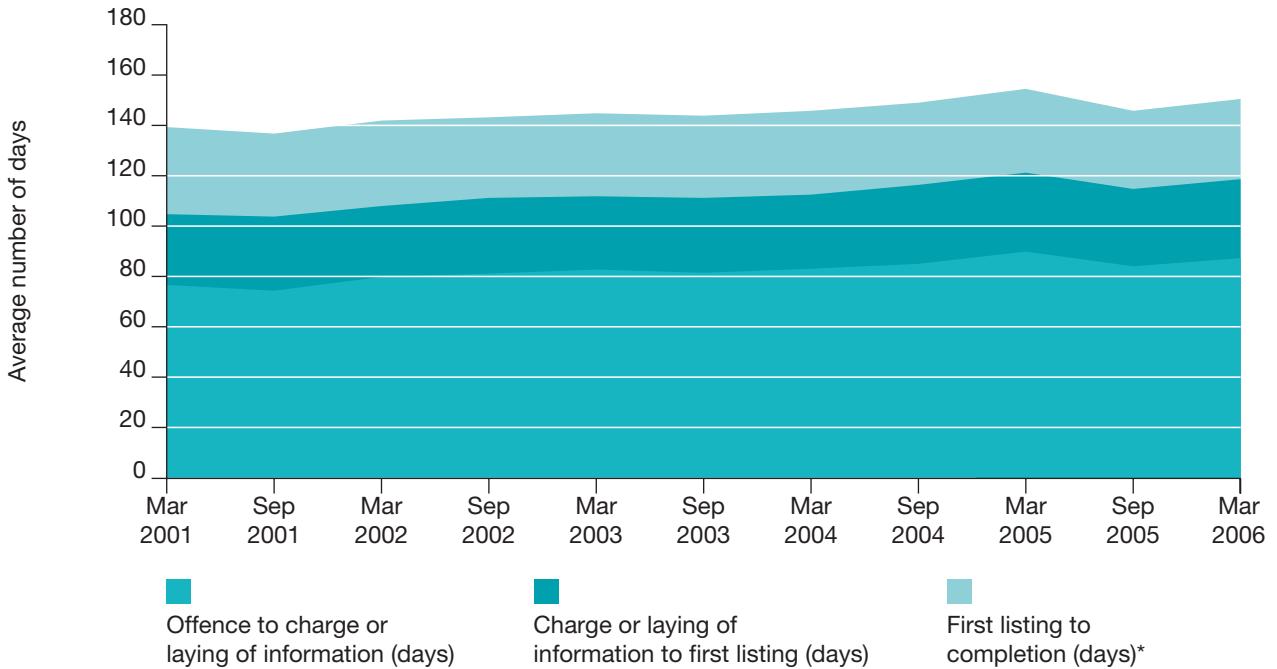
All data from Criminal Statistics 2004, Home Office publication

1.6 However, in spite of the improvements made to the criminal justice system in recent years, more needs to be done to improve timeliness:

- the time taken to bring cases and deal with them in the magistrates' courts increased by 11 days between March 2001 and March 2006¹ – see Figure D; and
- average waiting times to trial in the Crown Court rose to 16.1 weeks in 2004-05, compared with 14.7 weeks in 2002-03 – see Figure E.

¹The additional 11 days consist of an 11 day increase (76-87 days) from offence to charge or laying of information, a 2 day increase (28-30 days) from charge or laying of information to first listing and a 2 day decrease (from 34-32) from offence to completion.

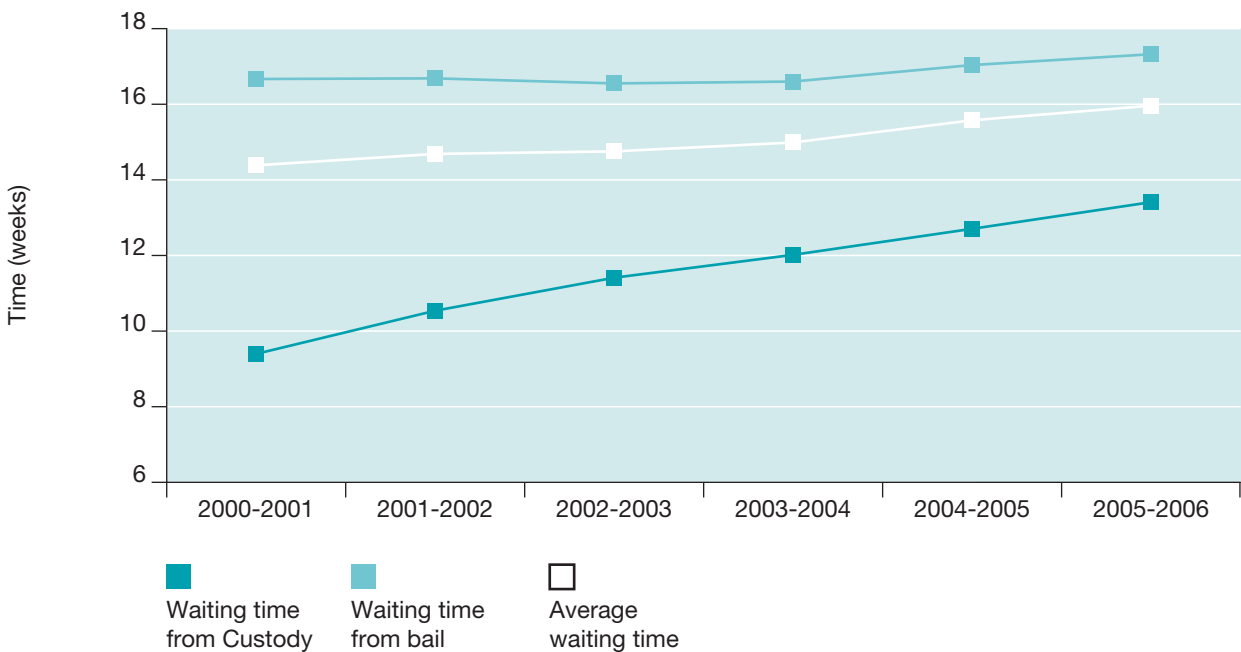
Figure D Criminal cases in magistrates' courts – Average time by stage of proceedings – March 01 to March 06



*Completion refers to magistrates' courts. Approximately 5% of completions are committals to Crown Court for trial or sentence.

Data from the Time Intervals Survey Statistical Bulletin published by Department for Constitutional Affairs

Figure E Time from Committal to first main hearing in Crown Court



Data from Crown Court case management system, Performance Directorate, Department for Constitutional Affairs

Proportionality

- 1.7 This review has started from the proposition that we need to have a proportionate criminal justice system that deals speedily and effectively with low level crime whilst at the same time having the ability to manage complex serious criminal cases. To deliver this we needed to gain a better understanding of the underlying reasons for the increasing length of time taken to resolve cases. This was achieved through carrying out detailed studies of the cases dealt with in the magistrates' courts and Crown Court to establish how we should improve the existing system further.
- 1.8 Both the magistrates' courts and Crown Court reviews exposed similar types of problems (see summary below) although the scale of the problem in the magistrates' courts is more serious. This is because over some years the processes for pre-court and in-court activities have become too bureaucratic for an effective system of summary justice. Time and resources spent on relatively minor offences is disproportionate. Further practical measures are therefore necessary.

Main reasons for delay found by magistrates' courts and Crown Court reviews

- Disproportionate time and money spent on minor offences in the magistrates' courts;
- Late disclosure or service of evidence by the prosecution;
- Lack of defence representation at first hearing in the magistrates' courts;
- Unnecessary pre-trial hearings;
- Lack of robust case management in the magistrates' courts;
- Poor court file administration;
- Lack of information from the prosecution or the defence – eg. on witness availability;
- Defence not instructed as a result of the defendant absconding; and
- Prosecution unable to carry out a timely review of the case – particularly regarding whether to discontinue the case.

- 1.9 The review team analysed these findings and have then made proposals to address these issues which are covered in the following chapters. The work going on in the courts, involving all criminal justice agencies, seeks to ensure that improvements are made in all these areas.
- 1.10 In both courts failure to comply with judicial directions and orders or to adhere to the procedural rules resulted in cases being listed time and time again. This is wasteful and ties up the courts, the prosecution, police and other agencies in unnecessary work – time that could be spent more productively. This is not about apportioning blame to individuals or individual agencies; there are inevitably a number of reasons why things that should be happening do not. However, the culture in some areas can be too accepting of inefficiency and this must change. Each and every person involved in the criminal justice system must have a personal responsibility to get things right first time and every time, complying with court orders. And where there are problems across agency boundaries, these must be discussed and sorted out locally – escalated if necessary until solved. The following two chapters set out how we plan to address this.

Public perceptions

- 1.11 Public confidence in the criminal justice system is rising (the December Quarterly Update of the British Crime Survey reports increased confidence in 3 out of 7 indicators between 2004/05 and 2005/06)². Yet the impression of an inefficient criminal justice system is one that resonates with the public, with six in ten people believing that the criminal justice system is ineffective in bringing offenders to justice and four in ten believing the system does not treat people coming forward as witnesses well³. DCA research also shows that direct experience of courts polarises attitudes: just under a quarter of court users emerge with a confidence level lower than it was prior to court, although 47% of users' confidence levels remained unchanged.
- 1.12 To gain further understanding of public perceptions, we commissioned independent qualitative and quantitative research. The quantitative research was carried out in March 2006, comprising a face-to-face survey of 1,027 members of the public aimed at testing people's attitudes on pre-court disposals. The qualitative study, carried out in May 2006, aimed to explore in more depth people's attitudes towards the criminal justice system, and in particular their understanding and acceptance of the concept of 'summary' justice. This research comprised a series of workshops with around a hundred members of the general public as well as some one-to-one interviews with stakeholders.

² Crime in England and Wales, Quarterly update to December 2005, April 2006

³ Crime in England and Wales 2004/05, Home Office Statistical Bulletin, July 2005

1.13 The key messages to emerge from the two pieces of work were:

- Broad support for initiatives which would speed up, simplify and make the criminal justice system more visible, and which would in turn raise public confidence;

“If it saves money and makes it all simpler, then great”

- Wide support for restorative justice approaches and punishments which linked back directly to the offence (e.g. cleaning up graffiti offenders had placed on the walls) particularly for low level offending.

“Something like vandalism, if you’re going to go scrawling your name all over a wall then part of the punishment should be to get rid of it”.

- In categorising offences into three broad levels (low, medium and high) there was generally a consensus among participants about which offences were low level and which were serious. Respondents were less comfortable with defining which offences fell in the middle range.
- Significant public support for low-level, uncontested cases for first or second time offenders to be diverted away from court to ensure proportionality. Both groups agreed that the punishment should fit the crime and that there were some offences which did not need to come to court. However, issues around safeguarding people’s rights were highlighted, as well as ensuring a fair court hearing if required.

1.14 Taken together, these two pieces of research provide a broad indication of public opinion. There is a general lack of understanding about what actually happens in the court process and in sentencing, which is often linked to public attitudes to justice. However, even allowing for that, the public expects and demands that the delivery of justice in the courts by all the component parts of the criminal justice system should improve their performance.

1.15 This research complements a wider body of work relating to the criminal justice system, including research examining consumers’ experiences at court commissioned by DCA in 2004. It is also consistent with the McInnes Review of Summary Justice⁴, which examined the provision of summary justice in Scotland including through similar methods of research and consultation with practitioners and the public. The focus of the review was wide but included examining the use of alternatives to prosecution (a feature of the Scottish justice system since the mid 1980s). The Scottish Executive has subsequently announced its intention to improve the summary justice system in Scotland, and legislation is currently being considered by the Scottish Parliament.

⁴The Summary Justice Review Committee: Report to Ministers, Scottish Executive, January 2004

2. Improving the speed and effectiveness of the magistrates' courts

2.1 The review team visited a selection of magistrates' courts to do an in depth analysis of cases examining the process from charge to conclusion. The purpose was to identify factors that delay or speed up the current process and find practical ways to make summary justice speedier, simpler and more efficient.

The findings

2.2 For each case the team collected data from the court and Crown Prosecution Service files on the number of hearings, the time from charge and first hearing to completion, and recorded any problems with case management.

2.3 The review team made findings in three main areas:-

- (i) The existing system could be significantly speeded up as there are currently unnecessary delays and hearings;
- (ii) magistrates' courts do not have a clear enough management structure, unlike the Crown Court where a Resident Judge exercises judicial leadership of the court working with the court manager. On a day-to-day basis the lack of clear accountability can make it difficult in some areas for local criminal justice agencies to engage with the courts to ensure issues are dealt with; and
- (iii) there could be more differentiation made between the way in which different types of case are dealt with so that the time and effort are proportionate to the nature of the offence (and potential ways of dealing with them differently by identifying cases that could be dealt with more quickly or using technology in ways to support the court and other agencies more effectively) and likely sentence.

What did the review find about the current system

The review team found that it took on average between 4 and 5 hearings for a case to be tried or more often for the defence to plead guilty or the prosecution to discontinue the case. Many cases in our sample showed that relatively simple offences were resulting in high hearing numbers – in one instance 14.

The main reasons for delay were:

- Papers not available at first hearing;
- Late disclosure or service of evidence by the prosecution;
- Lack of defence representation at first hearing;
- Lack of robust case management in the magistrates' courts;
- Lack of information from the prosecution or defence – e.g. witness availability;
- Defence not instructed as a result of the defendant absconding;
- Prosecution unable to carry out a timely review of the case – particularly regarding whether to accept pleas to lesser offences or discontinue the case;
- Too much process for relatively minor offences; and
- A culture where inefficiency and failure to comply with court orders was too much in evidence.

In many cases there was more than one cause of delay. The example below shows some of the issues that emerged from the case analysis.

Example: a case involving a total of 9 hearings – Defendant was charged in May 2004 with a Public Order Offence. At the first hearing in June 2004 no pleas were entered and a 3-week adjournment was granted. At the second hearing a not guilty plea was entered and the case adjourned for a review hearing in August. This was adjourned for two weeks because disclosure had not been served. At the adjourned hearing a trial was fixed for February 2005. In September 2004 the defence applied to vacate the trial and the application was adjourned on two occasions for lack of CPS file and witness availability. The trial was re-fixed for May 2005. A further adjournment application by the defence in May due to defence witness unavailability resulted in the trial being adjourned until November 2005. On the day listed for trial in November 2005 the prosecution accept a plea to a lesser offence.

Overall, the review found there were too many ineffective hearings. Cases were being adjourned too often without the case progressing, belying the very nature of the summary process. In many cases the volume of documentation, forms and correspondence generated by cases was disproportionate to the minor nature of the offence and orders of the court were not being complied with.

All too often a plea was not taken at the first hearing which wasted the time of all the parties. When a not guilty plea was entered, some courts routinely adjourned for 5 weeks for a pre-trial review regardless of the complexity of the case, building in excessive delay.

What we are doing to improve?

2.4 The picture of waste and delays shown by the magistrates' court review identified changes that could be made quickly and yet have a radical impact on reducing delay. We are working with the judiciary in four areas:

- Making the first hearing effective every time. This requires:
 - the prosecution papers to be served on the defence and the court;
 - court to probe the parties to identify issues to be tried;
 - directions and timescales to be set by the court and a date fixed for trial no later than 6 weeks; and
 - where defendants pleads guilty, they are dealt with there and then.
- Case progression is robustly managed by the judiciary without the need for a court hearing, supported by case progression officers, so that all unnecessary hearings are eliminated and cases proceed on the trial date as ordered;
- A change in culture, so that orders are complied with to the right standard at the right time;
- The judiciary to adopt a robust case management approach to adjournments in summary cases so that the expectation is that they will proceed on the day if one of the parties has simply failed to comply with directions or to be adequately prepared.

- 2.5 The early findings show that it is possible to process cases more quickly and that effective first hearings make a significant difference to improved case progression, thus ending the adjournment culture. Success is only possible if all parties – the courts, police, prosecution and defence – work together. We are working with the police and the prosecutors on reducing the burden on the prosecution team in case preparation so that it is more proportionate and this should help to reduce delays.
- 2.6 The areas will be evaluated in September and December 2006, with the aim of starting to apply the lessons learned across England and Wales from December 2006.

Other proposals we are working with the judiciary to take forward include:

- Introducing an improved management structure in the magistrates' courts to take responsibility for the judicial management of the caseload and performance of the court. This will bring together the magistrates, the Justices' Clerk, the District Judge and the administration to ensure that there is a local team closely connected with the community and in which the District Judges and magistrates are an integral part of local justice.
 - Subject to the necessary legislative changes, we will implement live links in London between the police station and the court for guilty pleas to be dealt with at the point of charge in low-level offences without ever leaving the police station. We are working with the London Criminal Justice Board on developing proposals for the introduction of live links between police charging centres and courts, a service that will also be provided outside normal hours. The effective use of video link technology would also ensure a prompt response in those cases, for example where people have failed to appear.
- 2.7 We will develop proposals working with the judiciary over the summer on how we can deliver the concepts of “next-day justice” and “courts on the move”. In outline, these are as follows:
- **“Next day justice”** is vital in challenging the notion that justice is slow. The name is emblematic: it may end up being between 24 to 72 hours in some cases, but it still captures what we are aiming for. It will however be challenging to deliver as we shall need co-operation from all agencies. We will develop proposals for setting up pilots in the autumn to test:

- the specific offences to target – possibly shop theft, quality of life crimes, possession of an offensive weapons, breach of court orders and, if appropriate, domestic violence (taking account of victims' needs);
 - our aim at this early planning stage is for these pilots to have dealt with 500 offences on a “next day” basis in their first year;
 - subject to evaluation, we will implement lessons incrementally, aiming for national roll-out in Autumn 2007 (taking account of interim evaluation spring 2007).
- “Courts on the move” is a shorthand for describing justice being delivered directly in the local community without (necessarily) the full paraphernalia of the current courts system. The delivery of justice on one level may mean a court sitting on an occasional basis in a Town Hall or community building to bring it closer to local people.

We will pilot the concept of “courts on the move” in three locations, starting in October. This will link closely with the planned community justice expansion, as we expect a number of those to develop plans for delivering justice directly in the local community. However it also links with Her Majesty's Court Service plans for delivering justice in sparsely populated areas. Following lessons from pilots, we expect all areas to be required to consider how they can use the concepts (from summer 2007). It will be very important to identify the right offences, as some offences/offenders are too serious to deal with outside of a court building. There is a strong case for dealing with quality of life crimes in these courts such as graffiti, criminal damage or noise nuisance.

2.8 Our ambition is that these changes together over time **will deliver**:

- A reduction in the number of hearings in most cases, from an average of between 5 and 6 to an expectation of one (for guilty pleas) or two (for contested cases); and
- The majority of simple cases taking from a day to 6 weeks from charge to disposal, as opposed to the current system, which averages over 21 weeks.

3. Improving timeliness in the Crown Court and removing unnecessary procedures

Crown Court review

- 3.1 Following the value we found in conducting the magistrates' courts review, we carried out a similar exercise in the Crown Court. The review looked at more than 500 case files from 8 different court centres, covering: different types of case, including guilty and not guilty pleas; cases which were sent to the Crown Court from the magistrates' court, and others which, because of the nature of the offence, were sent directly to the Crown Court; and cases where the defendant was in custody or on bail.
- 3.2 The review team found that:
- In the sample of cases, indictable cases sent to the Crown Court took between 24 to 36 weeks from charge to conclusion and cases committed for trial between 22 and 42 weeks;
 - There was a wide variation between court centres in the time it took for similar cases to go through the system;
 - The longest cases were generally the most complex, such as fraud cases or those where expert evidence was needed particularly in relation to mental health; and
 - There were far too many hearings (approximately 200,000 so-called 'mention hearings' a year) used to ensure the parties complied with rules and orders of the court, most of which should not have been necessary and many were ineffective. The mean number of pre-trial hearings was about 6 per case; 15 of the cases took more than 10 hearings to reach a conclusion – all using courtroom time and criminal justice system resources.
- 3.3 The main reasons for adjournment and delay were:-
- There was late disclosure or service of evidence by the prosecution;
 - The defendant had absconded and so the defence had no instructions to carry out the case;
 - The prosecution was unable to carry out timely review of case, taking late decisions about their readiness to proceed with the case;
 - There were too many unnecessary hearings before the trial actually took place;

- There was insufficient information from the prosecution or defence to set accurately a trial date (e.g. with witness availability); and
- The court failed to carry out proper administration of files (e.g. by accurately recording the case history).

3.4 The review found many examples of good practice in courts across the country. Some of these are set out here. Working with the senior judiciary, and the Resident Judges of the Crown Court, we will share best practice that can be applied across the country. The judges will assist with its implementation.

Examples of best practice

Strong Judicial Leadership

Where the Resident Judge lays down the ground rules (based in the Criminal Procedure Rules) for the area and there is a consistent approach by every party in adhering to the rules including early identification of issues through more thorough examination of the defence statement. Strong judicial leadership at national and local level is essential for the efficient and just progression of the cases before the courts.

Resident Judges who regularly review performance and use their authority to encourage first time compliance with the court's directions, holding other agencies to account, can have a significant impact.

In some courts, case management judges have been appointed to oversee particular cases, providing continuity.

Effective case progression officers

Case Progression Officers pro-actively to support the judiciary in their case management role, enforcing orders and directions without using court hearings to progress cases, so that they come to trial (or are dealt with as guilty pleas) as quickly as possible consistent with the interests of justice.

All letters requesting an adjournment sent to the Resident Judge and handled administratively, using his authority without taking time in court.

The Resident Judge giving authority to the court's case progression officer to ask agencies and the defence for written explanations for delay or non compliance with orders.

Setting the timetable early

Where possible, setting the trial date at the preliminary hearing ensures that all agencies and the defence have a clear deadline to work to. Allocation of a 'trial window' period when cases are sent to the Crown Court by the magistrates' courts can also help the case progress more smoothly.

Regular review of performance by all agencies, and a co-operative approach to delivering improvements

In many courts, regular meetings are held between agencies, to review cases and to plan for forthcoming hearings.

3.5 In addition to the judges replicating best practice, we will work with the judiciary to:-

- Pilot a new process in cases that are sent from the magistrates' court to the Crown Court, to enable guilty pleas to be indicated in the magistrates' court. In those cases, action will be taken to ensure that the defendant can be sentenced in the first hearing in the Crown Court.
- Where court orders are not being complied with, or there are significant delays, we will recommend the use of weekly case management audits with the Resident Judge;
- Test the use of telephone and e-mail hearings to replace unnecessary 'mention hearings';
- Require that, where 'mention hearings' are held, clear reasons are given and the outcome is monitored; and
- Explore the possibility of setting different time targets for different types of case.

Our ambition is that over time this will deliver:-

- a reduction in the time taken, so that most cases are commenced and dealt with within 16 weeks; and
- a reduction in the number of pre-trial hearings from an average of 6 or more to no more than two (i.e. the Preliminary Hearing and the Plea and Case Management Hearing) in most cases, except for complex and difficult cases.

4. Securing value for money from legal aid

4.1 Getting best value from the money we spend on criminal legal aid has two key elements:

- making sure we pay for defence services in a way that is fair and at the best price to both suppliers and taxpayers; and
- ensuring the defence procurement regime exercises adequate control over the length, volume and cost of trials, particularly in very high cost cases.

Lord Carter's review of legal aid procurement

4.2 Lord Carter's Review has provided a clear roadmap to establishing a sustainable structure for the procurement of defence services. It is vital that the proposed changes to legal aid help to ensure that cases going through the courts can be managed more effectively and speedily through the criminal justice system together with providing the taxpayer with better value for money.

4.3 Lord Carter's recently published Review has set out proposals for a new sustainable system for procuring legal aid to make sure we get better value for money in the long term, and provide better incentives for swifter justice. We are currently consulting on his proposals, a consultation which ends on 12 October 2006, some of which will be essential to improving the case management of very high cost cases (see the further section in this chapter).

4.4 One of the central aims of Lord Carter's work on criminal legal aid provision was to devise a procurement structure that would better support both the operation and future strategic reform of the criminal justice system. As such there was a close relationship between the development of Lord Carter's proposals and emerging plans to reform the criminal justice system to focus on speed, simplicity and the effective use of summary justice.

4.5 Lord Carter's proposals support these objectives in two specific ways.

(i) Process reform

Practitioners work locally –Lord Carter's proposals for the introduction of panel areas in October 2007 will mean that providers will undertake more work in their local communities. This will mean quicker response times to police stations and courts, and opportunities for improved local relationships with other criminal justice agencies, including local criminal justice boards.

Continuity of representation – Lord Carter’s plans entail a firm expectation that the same firm will see a case through, from the police station through to court and disposal. This would largely eliminate any duplication of work associated with a change in representation, enabling a swift passage to disposal. A telephone-based triage system would ensure that face-to-face advice in the police station is available only where absolutely necessary, and would also divert cases to specialist ‘High Cost Case providers’ as appropriate.

Client choice – Clients would retain the necessary element of choice of provider in Lord Carter’s scheme. This would help suspects and defendants to engage with the legal process, for instance by reducing the likelihood of ‘no-comment’ interviews at the police station.

Quality – A Peer Review scheme, devised by the Institute of Advanced Legal Studies, for the first time directly measures the quality of advice provided to clients. It is proposed that a similar scheme should be developed for advocacy. Only high quality providers, assured through Peer Review, would be eligible to submit bids for criminal legal aid work.

(ii) Incentivising swifter resolution

Short Term: Fixed fees, rolled up travel and waiting – Much of the current provision of legal aid is remunerated on a ‘per hour’ basis. This means that providers have no incentive to drive cases forward to conclusion; indeed, longer cases currently pay more. Lord Carter’s scheme proposes fixed fees from April 2007, rewarding efficiency and speed. Across the spectrum of criminal legal aid work, providers would be incentivised to drive cases forward quickly. Payments for travel and waiting would also be rolled into fixed fees, making it more attractive financially for suppliers to finish cases quicker.

Medium Term: Price competition, single suppliers – Lord Carter has proposed that from 2009, price competition will set the cost of providing criminal legal aid services. In parallel a single payment will be made to a named representative of a Crown Court defence team. Taken together with strict quality controls these changes should mean that:

- Only efficient and high quality providers will be able to access criminal legal aid work; and
- Profit margins will narrow for drawn-out cases.

Practitioners will need to drive cases forward to the earliest appropriate conclusion to remain profitable. Again, Peer Review will ensure that quality of advice and the standard of advocacy will not be damaged in the inappropriate pursuit of higher profit margins.

Improving trial management in very high cost cases

- 4.6 Very high cost cases are the most serious and expensive cases in the criminal justice system. Lord Carter's Review of Legal Aid made a number of recommendations to improve the management of defence work in these cases and there are also lessons to be learned from a number of high profile cases including the Jubilee Line fraud case which collapsed at great public cost.
- 4.7 These cases consume a disproportionate resource – for instance, the top 1% of cases account for half of criminal legal aid spend in crown courts. In 2003/2004 approximately 750 cases concluded in the Crown Court that had a cost of over £100k per case, ranging up to nearly £14 million (Jubilee line fraud case). Of this, £100 million is spent on individual case contracts (40 days or longer), with £200 million on shorter cases remunerated under Graduated Fees.
- 4.8 It is in the public's interest that we continue to try big cases – these cases are usually extremely high profile and of public concern, often alleging serious criminality in cases such as fraud, organised drugs crime and terrorism. Given their profile and nature, very high cost cases are where the criminal justice agencies are often under the most strain, where decisions in individual trials can cost millions of pounds. It is vital that we get the behavioural incentives right for prosecution and defence representatives, so that all involved benefit from working in a way that make trials move more swiftly to just conclusions.
- 4.9 Tackling the way we manage these cases will require the close working of parties across the criminal justice system. Both prosecution and defence have a clear duty to the court in making sure trials run to schedule and are well managed. The judiciary has a leading role in setting out clear timetables for a trial and ensuring they are followed, and managing issues that affect the trial as they come up.
- 4.10 In November 2005, we established the High Cost Cases Review Board, with a remit to examine the causes of long and complex trials through detailed analysis of recently concluded cases, and review the effectiveness of the way in which very high cost cases are conducted.
- 4.11 In addition to this Board, prosecuting agencies now have directorial oversight of the decision to prosecute and the progress of very high cost cases. The Crown Prosecution Service have also established

local panels to support the Director of Prosecution's panel on very high cost cases, ensuring that cases can be passed between levels of seniority to ensure that they are subject to appropriate scrutiny.

- 4.12 The senior judiciary have also appointed a member of the High Court bench to act as judge-in-charge of terrorism cases and the terrorism protocol. Judges trying long and complex trials will be provided with extra training in trial management skills from the Judicial Studies Board.
- 4.13 We will work with the judiciary, through the High Cost Cases Review Board, to widen oversight of ongoing trials to include scrutiny of defence case statements and trial timetables. We will develop the High Cost Cases register to notify criminal justice agencies earlier of potential clashes, overruns and delayed trials.
- 4.14 Following consultation on Lord Carter's proposals, we propose to set up a new panel to oversee the operation of judicial protocols on trial management, effectiveness of trial estimates and the way in which the procurement regime is related to the trial estimate. This panel will be a sub-group of the High Cost Cases Review Board, and will be chaired by a member of the senior judiciary.
- 4.15 To support these responsibilities, there are a number of practical steps that the judiciary and other criminal justice agencies should take:

Before the trial

- 4.16 Prosecution and defence provide a detailed timetable to the court, which the judge scrutinises critically and then sets.

During the trial

- 4.17 The judiciary take a firm approach to case management, using their powers to ensure both sides disclose their case early on, and closely monitor the progress of the trial against the timetable as set out in the Lord Chief Justice's Protocol on the Management of Heavy Fraud and Complex cases. Prosecution, defence and judiciary should work together, in line with the Attorney General's March 2005 Guidelines on Disclosure, to make the disclosure regime work more effectively, bringing an end to defence 'fishing expeditions' and prosecution 'warehouse disclosure'.

New powers for the judiciary

- 4.18 Too often issues around capacity can delay the start and progress of trials. In cases with many defendants where charges of conspiracy have been brought (where there may be significant of risk of defendants offering a 'cut-throat defence' implicating their co-accused), there is often a serious risk of a conflict of interest where one firm of solicitors acts for a number of defendants.

- 4.19 We propose to give the judiciary new powers through regulations – which we will aim to introduce in the autumn depending on the outcome of consultation – that will give trial judges the power to order a change in defence representation where this is in the interests of moving the trial to a just outcome. The judge will have discretion to receive representations from parties in the case (both prosecution and defence), and will refer to professional rules on capacity and conflict of interest. Should the judge order a change of representative, the defendant will have a set period in which to make their choice as to their preferred replacement.

Focussing cases on relevant issues

- 4.20 The prosecution and defence team’s first statement of the case and defence is a central part of the pre-trial process. In particular, the defence case statement, along with the primary bundle from the prosecution setting out their case, is pivotal to establishing the points of contention in the prosecution case, and so much of the course of the remaining trial. Although the defence are required to submit a defence case statement and identify the issues, we believe more could be done to make defence teams state their intended lines of defence at this early stage. For example, it may be possible to limit the work paid for under a case contract to the lines of argument and investigation outlined in the defence case statement and to manage carefully any new lines of inquiry. This would compel defence teams to make a clear statement of their intended case at an early stage, which would be an invaluable tool in managing the length and cost of such trials once they start.

- 4.21 We will examine ways to develop the required elements of a defence case statement and consider how to make these more effective. This may include changes to the contracting regime to tie defence case statements more closely to work paid for under contract.

Enforcing compliance with court orders

- 4.22 We are consulting on Lord Carter’s proposals to set up a restricted panel of quality-accredited defence teams to work on long and complex trials. We propose to write our expectations of how teams should deliver best value into the defence contract, and exclude teams when they breach the contract and fail to deliver an efficient and effective service.

- 4.23 We are consulting on Lord Carter’s proposals and intend to introduce a post case audit panel (likely to comprise members of the professional regulatory bodies, practitioners, the judiciary and the LSC, as appropriate), to scrutinise the behaviour of defence teams and recommend sanctions for poor performing or non-compliant representatives up to exclusion from future panels. We will aim to ensure that it becomes unprofitable for defence teams to drag trials out beyond the agreed estimated length. We will work with the judiciary to look at other ways to enforce their decisions, potentially through defence and prosecution procurement regimes.

5. Enforcement

5.1 Significant progress has been made in improving enforcement performance over the last three years especially in relation to fines. Cash collection of fines increased from £120 million in 2002/03 to £149 million in 2005/06. The national payment rate currently stands at 83%. This means that almost £30 million extra a year in fines is now being collected, with plans in hand to deliver even greater levels of compliance and ensure that fines are seen as an effective penalty.

5.2 These achievements have been secured through a wide range of initiatives including:

- three national ‘blitzes’ on fines (Operation Payback) involving the close co-operation of both the Courts and the Police in bearing down on those who wilfully fail to comply and sending out clear messages that there is ‘nowhere to hide’;
- the adoption nationally of recognised enforcement best practice, for example the establishment of ‘fines clinics’;
- greater and wider availability of intelligence for courts enforcement teams in tracking down offenders by, for example, access to the Police National Computer, the Department for Work and Pensions’ Customer Information System and a credit reference agency database;
- a programme of direct intervention with poorer performing areas to identify weakness and put in place more robust enforcement processes; and
- the implementation of the new legislative framework for enforcement, (set out in the Courts Act 2003) which together with plans for the national enforcement service should enable us to deliver a fully effective enforcement regime and our objectives to improve public confidence in fines.

5.3 **The Courts Act 2003** received Royal Assent in November 2003. National implementation of the Fines Collection scheme in the Courts Act 2003 was completed at the end of March 2006, following earlier pilots in five areas. The scheme is based on three clear principles:

- The enforcement of court orders, once made, is primarily an administrative process that should be dealt with as quickly as possible;
- there should be every opportunity for the offender to co-operate and to pay the fine promptly, but less opportunity for persistent defaulters to ‘play the system’; and

- support should be available for those who need help to organise their payments or who are genuinely struggling to pay.

The scheme:

- is designed to encourage payment, with strong incentives for offenders to stay in touch with the court during the ‘lifetime’ of a fine; making it easier for the court to trace them, and deal with them should they default;
- aims to ensure that the court is provided with the information it needs in order to set the fine at the right level. It makes failure to provide information on means an offence; and
- introduces Fines Officers. Magistrates’ courts are now able to refer sentenced cases to a Fines Officer who will be responsible for managing the collection and enforcement of financial impositions on behalf of the court. Enforcement action, and new sanctions, available to the Fines Officer include:
 - variations of payment terms;
 - more automatic and compulsory attachments to earnings or deductions from benefits;
 - clamping of fine defaulters’ vehicles;
 - registration of the debt of those who do not pay their fines; and
 - issuing a distress warrant⁴.

5.4 But the focus has not been solely on fines. It is also vital that community penalties are complied with, and breaches of the orders of the courts rapidly and efficiently enforced where they are not. Two new targets were introduced in October 2005 to underpin performance improvements:

- Community penalty breach proceedings should take an average of 35 working days from relevant unacceptable failure to comply to resolution of the case; and
- 50% of all breach proceedings to be resolved within 25 working days of the relevant failure to comply.

⁴Magistrates’ courts may issue a distress warrant enabling bailiffs to seize money and goods from the defaulters to the value of the unpaid fine. It is one of the most commonly used enforcement tools. The bailiffs costs are met by the defaulter.

- 5.5 Performance against these targets has not yet reached acceptable levels, and a programme of work has been launched to secure improvement. This includes:
- national adoption of an **Effective Practice Guide** issued 16 May 2005. The Guide includes details of other initiatives aimed at improving performance and provides tried and tested good practice processes and systems to speed up the end to end process and encourage joined up working between the agencies involved;
 - a **joint workplan** with the courts, Probation Service, Youth Offender Teams and the Police to improve performance across the end to end process, including:
 - **joint protocol to improve the listing and notification of hearings of Community penalty breaches** – from 1 April 2005 to expedite listing of breaches into dedicated slots and notification of the date to the offender at the earliest opportunity;
 - rollout of **‘fast track’ processes** aimed at high-risk offenders and focusing on getting them back to court quickly and efficiently;
 - the increased national use of new **intelligence tools** to maximise enforcement prospects, for example the **Police National Computer** (where 40% of warrants posted are now being executed by Police) and the Department for Work and Pensions Customer Information System (which is providing new or confirmed addresses in two-thirds of searches); and
 - an ongoing programme of **targeted support** for the 19 poorest performing areas – which are reviewed on a monthly basis as new data becomes available. Support is also being co-ordinated with that being provided by National Probation Directorate and the Performance Action Teams. Focus is turning now to ensuring the appropriate support is provided to the larger areas where improvement can make a real impact on performance.
- 5.6 Police and courts working together have made major improvements in the enforcement of failure to appear warrants, achieving a 43% reduction in the number outstanding over the past two years. The challenge now is to sustain this momentum through a more integrated approach to improving compliance with the terms of bail, sharing information, and faster and more certain execution of warrants for failure to appear at court.
- 5.7 But more remains to be done if we are to put in place a fully effective enforcement regime that enables the Government to successfully

deliver against its objectives and results in real improvements in public confidence about the enforcement of the orders of the courts. These objectives include achieving the target payment rate of 85% for 2007/08 and increasing the use of fines as a sentence of the court.

National Enforcement Service

- 5.8 Building on the success to date the next major step is the **full implementation of the national enforcement service**.
- 5.9 The national enforcement service is not a new Agency. It is a new way of working established on the concept of seamless joint working, co-operation and partnership between Her Majesty's Courts Service, and other criminal justice agencies: the Police, National Offender Management Service and the Crown Prosecution Service. With a distinct and clearly identifiable body of enforcement professionals it will focus on improving performance across all aspects of criminal enforcement.
- 5.10 The establishment of the national enforcement service presents an exciting opportunity to deliver real change in the enforcement of financial penalties, defendant attendance, community penalties and confiscation orders. Rigorous and successful enforcement will contribute towards increased respect for the authority of the courts, which will in turn reinforce public confidence in the criminal justice system.
- 5.11 Some of the practical benefits that the national enforcement service will deliver include:
- The ability to view all warrant matters outstanding against a named individual – thereby reducing duplication of effort caused by multiple visits by different enforcement agencies;
 - Improved tracing capability – enabling us to crack down on the hard core defaulters through access to a number of different databases;
 - Better tools and specialist equipment e.g. Police National Computer links, access to a credit reference agency database, secure vehicles for Civilian Enforcement Officers; and
 - Sharing of knowledge and spreading of best practice nationwide.
- 5.12 The testing of the national enforcement service approach has already started in a “pathfinder” project, which began in the North West (Cheshire, Cumbria, Greater Manchester, Lancashire and Merseyside) in April 2006. This will assess the new ways of working to ensure that they have the maximum impact before full national roll-out takes place from April 2007.

5.13 The pathfinder approach allows development of a best practice model for enforcement activity, which can then be replicated across other areas and regions and a new national framework for enforcement.

The national enforcement service will include:

- Texting of defaulters to remind them to pay their fine;
- Regional centres of excellence for confiscation to seize money from criminals;
- A new approach to warrant handling – allocating by risk, as opposed to type allowing the courts to execute fail to attend warrants more effectively;
- Use of an existing private sector contractor to attempt to enforce 20,000 accounts, over 12 months old, which Her Majesty's Courts Service has found hard to trace;
- Blitzes focusing on recovering monies owed under compensation orders;
- The provision of secure vehicles for transporting offenders who are arrested and then transported to the Court; and
- An IT application which removes the duplication of effort by the Police and the courts.

5.14 Taken together, the progress made to date in securing enforcement performance improvement alongside the new legislative framework for enforcement and the planned national roll out of the national enforcement service means that in terms of outcome Her Majesty's Courts Service will deliver:

- a fines payment rate of at least 85% by 2007/08;
- sentencer confidence in fines as a penalty so that we see an increased use of fines and move at least 25,000 offenders from community sentences to fines (and we are currently piloting a scheme to identify cases where a community penalty might previously have been imposed but where probation now suggest a fine might be a more effective penalty but with enforcement prioritised); and
- increased public confidence in the effective of fines as a penalty and compliance rates of those who are fined.

6 Extending Community Justice

- 6.1 The Community Justice programme has developed as part of our wider agenda to improve the operational performance of the courts. The Community Justice vision is, however, much more broad ranging. Above all, it is about engaging with the local community and working in partnership with the range of criminal justice agencies, support services and community groups to solve the problems caused by offending in the local area. Success will be measured not in terms of *processing* cases but in terms of the *outcomes* achieved for individual offenders, victims and the wider community.
- 6.2 By strengthening the links between the courts and the local community, local people's confidence in the work of the court will increase and the community will feel empowered to take more action to tackle offending behaviour and reduce crime. Community Justice is therefore an approach rather than a building, having accountability and responsiveness to the community at its core.
- 6.3 The core objectives of the Community Justice programme are:
- Making the Court and the criminal justice system responsive to the community – that community needs are listened to, acted upon and, crucially, do not then recur. The link with neighbourhood policing is critical here;
 - Breaking cycles of re-offending – in part by involving range of agencies in a problem-solving approach; and
 - Ensuring that compliance with the court's orders or other penalties are seen and recognised by the community and that their problems are addressed.
- 6.4 The courts, acting alone, cannot deliver these objectives, so Community Justice must be driven forward in partnership with other key players including the other criminal justice agencies, local authorities and the wider voluntary sector. It must link strongly with the broader community engagement agenda, in particular to the focus on neighbourhoods and neighbourhood policing.

North Liverpool and Salford

- 6.5 Plans for a Community Justice Centre in England and Wales were first set out in the March 2003 White Paper "*Respect and Responsibility – Taking a stand against anti-social behaviour*"⁵ which stated that the aim of the Community Justice was to "*improve links between the*

⁵ Cm no.5778

community and the delivery of justice ... to facilitate better liaison and communication with the courts, thereby reducing delays in the listing of cases and producing more consistent breach sentencing due to increased awareness of local issues and the impact of anti-social behaviour.... and to give fast alternatives to custody such as treatment for drug misuse, debt counselling and reparation to the community with immediate commencement”.

- 6.6 The **North Liverpool Community Justice Centre** opened in September 2005⁶. The building contains a formal courtroom and a large room, which can be used as a less formal court. There are dedicated representatives from all the criminal justice agencies (Police, Crown Prosecution Service, Probation and Youth Offending Team) and a range of other service providers on site. The Community Justice Centre offers services including victim and witness support, drug and alcohol workers, mediation, housing advice, education and vocational advice, debt counselling and mentoring. All additional services are available to any member of the local community. The Community Justice Centre acts as a hub for crime prevention information, advice and guidance, and is a base for community projects and diversionary activities for young people. It sponsors a number of activities to prevent crime and promote social inclusion. These include a midnight football league, a photography course, a young women’s health course, and fire safety courses (for local youths including some identified as at risk of setting fires). These have been done in partnership with local organisations including Positive Futures and the Fire and Rescue Service.
- 6.7 The court within the Centre can sit as a magistrates’ court, a youth court, a Crown Court, and a county court. It is presided over by a single Circuit Court judge, His Honour Judge David Fletcher, with magistrates sitting to conduct trials. The court deals with all non-trial summary and most either way offences committed within the designated catchment area⁷; it also deals with anti-social behaviour orders applications, enforcement of confiscation orders, education welfare cases, and local authority prosecutions for non school attendance and illegal tipping of waste.
- 6.8 The **Salford Community Justice Initiative** is exploring the extent to which Community Justice principles can be delivered in a mainstream magistrates’ court. It began operation in November 2005 and the court currently sits one day per week. A non-statutory panel of magistrates hear criminal cases from the specified priority area (Eccles) and Anti Social Behaviour Orders applications from across the city. The court has been developing new ways of working with offenders and the community that focus on tackling their problems

⁶ The Community Justice Centre heard cases on a temporary basis from a courtroom in Liverpool magistrates’ court from December 2004 whilst the building was under development.

⁷ Sexual offences are the only group of offences specifically excluded.

and making reparation. The Initiative has also actively engaged the community to identify local priorities and has established mechanisms to inform local people better about the work of the court.

Case Study

Adult and youth (including young offenders) Community Reference Groups meet regularly with Judge Fletcher and his team at the North Liverpool CJC. They take an active role, identifying the community's priorities for tackling types of offences and what types of services are needed most. They also suggest tasks for unpaid work (e.g. graffiti to be cleaned) to be carried out by offenders. There have also been a series of 'Meet the Judge' public meetings held where people were able to hear about the work that the Centre does, ask questions, and make suggestions. At one such meeting the community mentioned that there was a problem with prostitutes in a local street. Residents didn't want to walk down it and this meant it was cutting the neighbourhood in two. The Judge promised to do something to help. The team approach of the Centre meant the police launched an operation to arrest prostitutes and kerb crawlers and the defendants were brought swiftly to court. As part of their sentence the kerb crawlers had their driving licences suspended so they couldn't offend in other areas. Residents were quoted in the Liverpool Echo, which covered the cases as being extremely pleased that their concerns were being addressed so swiftly and effectively.

Quotes from the community

"There is a huge void between the community and the justice system, which the Community Justice Centre is helping to fill by working with us to tackle the problems we face every day."

Anonymous, member of the North Liverpool CJC Community Reference Group

"We have come to see HHJ Fletcher as "Our Judge" as he knows what is important to us and has made himself known in the community by getting out and about meeting the people who live here."

Anonymous, member of the North Liverpool CJC Community Reference Group

"I believe that Judge Fletcher is very fair. He took everything into account when sentencing my son and really understood the situation that both my son and I faced. He takes an interest in support that is available to parents."

Anonymous, mother of a defendant

Key principles of Community Justice

6.9 We have drawn on the experience of the North Liverpool and Salford initiatives to define the key principles of Community Justice. These are as follows:

- **Court at the heart of the community.** The Court should be at the heart of the way in which the community tackles offending, the causes of offending, the prevention of offending/re-offending, the punishment of offending and the making of reparation.
- **Visible and responsive to local people.** Local people should be better informed about the work of the Court and have increased opportunities to influence the way in which it tackles offending, whilst preserving judicial independence. Increasing engagement with the local community will strengthen the link between the courts' work and the safety (perceived and actual) of the local community
- **Robust and speedy case management.** Community Justice should enable swift resolution of cases through rigorous and effective case management as well as harnessing the combined potential of a range of agencies working together. Increasing speed in listing cases, reducing delays created by unnecessary adjournments, ensuring offenders begin sentences promptly and acting swiftly on failures to turn up to court or comply with sentence will all contribute towards increasing community confidence in the effectiveness of the court.
- **Maximising judicial authority.** The judiciary carry enormous authority over offenders and criminal justice agencies and thus have a powerful role to play in promoting compliance with court orders and tackling offending behaviour. Community Justice should enable the judiciary to direct hearings, lead the problem solving approach, and maintain oversight over offenders' progress post-sentence.
- **Problem solving in approach and outcome.** Problem solving is at the heart of the Community Justice approach, and in essence means making use of a range of available service providers in order to address and tackle the underlying causes of offending.
- **Collaborative working** The principle of collaborative working should encompass the judiciary, Crown Prosecution Service, Probation, Youth Offending Team and other criminal justice agencies, as well as service providers and the local community. Community Justice strives to bring new players on board and to integrate these services into the standard operating procedures of the court. Collaboration enables consistency, builds trust and promotes a team approach to decision making and dealing with

offenders. It ensures that a range of agencies, necessary for problem solving, are available to the court. In sum it empowers the court to deliver an end-to-end service to offenders, victims and the community.

- **Repairing harm to victims and the community.** Victims and witnesses must be kept fully informed and supported from their first contact with the system until after the case has concluded.
- **Promoting Social Inclusion of Offenders.** Community Justice can play a crucial role in improving social bonds and cohesion within the community. More specifically, this involves developing pathways to support the re-integration of offenders back into their community.

Way forward

- 6.10 We now want to build on the momentum of the North Liverpool and Salford initiatives to extend Community Justice to other parts of England and Wales. We will therefore identify the 10 local authority areas potentially most suitable for Community Justice. To achieve this, we will use an intelligence-based approach based on indices of crime, social deprivation, diversity and confidence as well as the need to ensure that Community Justice is tested in other areas of the country. We will also integrate this with the approach the Office for Criminal Justice Reform is developing for working with a number of Local Criminal Justice Boards keen to pioneer a significant improvement in performance through end to end business re-design and closer working with Crime and Disorder Reduction Partnerships and other partners.
- 6.11 We will then work in partnership with the judiciary and the relevant Local Criminal Justice Boards for the 10 areas and their Crime and Disorder Reduction Partnerships and local authorities to encourage them to support the development of proposals for possible Community Justice projects. These would incorporate best practice from Liverpool and Salford as well as other mechanisms like the problem solving courts such as for anti social behaviour, domestic violence and drugs that we have developed over the past two years.
- 6.12 We aim to identify the areas and start working with them over the summer. Some of the areas most likely to be affected have already expressed a strong interest. We believe therefore we can have new Community Justice initiatives up and running by the end of March 2007. The aim will be to provide further learning and best practice so that in the long term the principles of Community Justice are mainstreamed in the courts and the criminal justice system rather than by branded centres or new buildings. Part of this approach is likely to pilot alternative court provision in the community where appropriate. We are also discussing with the judiciary and others the best framework for establishing stronger links with the community.

7. Dealing with low-level offences outside the courtroom

- 7.1 Magistrates' courts deal with over 95% of all criminal cases, and their capacity is under increasing pressure in some areas. Numbers of summary cases have increased for the third year in a row, and delays have increased too. Moreover, performance improvements and technology such as automatic number plate recognition are enabling more offences to be detected and prosecuted. It is also clear that there are more effective ways of dealing directly with some forms of low-level offending, especially first-time offending, than the full court process.
- 7.2 To address these factors, the review considered a number of alternative ways to handle uncontested, low risk cases differently:
- through making best use of the expertise and powers of police and prosecutors to tackle minor offending immediately; and
 - creating a bulk processing system for those regulatory offences that need to go to court.

Summary motoring and television licensing

- 7.3 In a consultation exercise in late 2004 and early 2005, magistrates told us that television licensing and summary motoring offences took up a disproportionate amount of court time and resource – see key facts below. Such cases, where there are no victims or public safety issues, need not be dealt with using the same process as offences such as burglary or assault. They are regulatory in nature and their evidence is largely documentary and could be delivered in a much more proportional way. The *Supporting magistrates' courts to Provide Justice White Paper*⁸ therefore stated that the Government was:

“looking at a range of alternative processes and methods of disposal for some of the high-volume, relatively low-level work in ways that do not adversely impact on deterrence or the quality of justice. This will facilitate swifter and more efficient justice and create capacity to deal with those cases that remain in the magistrates' courts.”

⁸ Cm 6681

- 7.4 The vision for this work in future is to have a bulk process for uncontested television Licence evasion cases and some documentary motoring offences. We will develop bulk processing, including the necessary judicial procedures, to free up local court capacity. We will work with the judiciary to ensure that this work is carried out fairly and as quickly as possible. The vast majority of these cases will be heard in the absence of defendants, unless a defendant specifically requests a hearing at their local court in order to contest the case. Defendants whose cases are heard in absence will be notified of the outcome and the relevant prosecuting agencies informed.

Key facts

Television licensing evasion cases:

- There were 173k cases in 2005, resulting in around 3,500 court sittings – only 10% of cases were contested.
- Of the 173k cases, only 9,000 people attended court.
- There is a very high guilty rate; only a handful of defendants are found not guilty.
- Such cases almost always result in a simple fine, but these vary across the country from £30 to £300.
- Currently use approximately 5,800 hours of local court time.

Vehicle driver licensing, vehicle registration and excise licensing, and vehicle test offences:

- Last year, there were around 387k such offences (that would be suitable for bulk processing) prosecuted in the magistrates' courts by various authorities, including the Driver and Vehicle Licensing Agency, Police, Crown Prosecution Service and Vehicle Operator Services Agency.
- Only 10% of these cases were contested, and only 10% of those prosecuted actually attended court for their hearing.
- Guilty findings usually result only in the issue of a fine and penalty points, although these vary across England and Wales.
- 387k cases represents nearly a quarter of all magistrates' courts business.

- 7.5 We estimate that this approach will remove some 500k cases out of local courts, freeing up time and resources to deal with the more serious cases and those with significant impact on victims and communities.

Alternatives to Court

Wider public discussion

- 7.6 Our overall vision is for a *simple, speedy and summary* community-based criminal justice system that tackles local anti social behaviour and low level crime in a practical, fair and proportionate way. A key component of such a *simple, speedy, summary* criminal justice system is the ability to deal rapidly and effectively with cases where formal court proceedings are disproportionate and remedies such as Fixed Penalty Notices, Warnings or Cautions are more appropriate.

- 7.7 To achieve this, we need to engage with the judiciary, criminal justice practitioners, communities and the public in general about where the balance lies between simple and immediate responses to low level misbehaviour and fast, efficient and modern court processes. We want to know more about how they want problems in their area to be tackled.

- 7.8 We have embarked on this already through the review and surveys of public attitudes. We want to do more here. We will be drawing up a matrix for further discussion with CJS practitioners, the judiciary, magistracy and the public. In particular, it is important that alternative remedies are open and transparent to the public, and some form of judicial oversight of the overall system and the way it operates may be a good way of achieving this. As part of taking this forward we will enter into discussion with the judiciary and the magistracy, those who work in the criminal justice system and the public on how to ensure transparency and openness.

Extending Conditional Cautioning

- 7.9 Through the Criminal Justice Act 2003, we introduced a Conditional Caution for adults. This is for cases where someone has made an admission of guilt in relation to a low-level offence such as minor criminal damage but is willing to make amends and get help to address their offending. In these cases, the Crown Prosecutor, in consultation with the police, can offer a Conditional Caution. Free legal advice is available. The person can either accept the conditions or refuse and opt for a court hearing. However if that person agrees to the conditions but does not carry them out, they can be prosecuted for the original offence. Typical cases are low-level cases of criminal damage, theft or minor drug offences. Victims are consulted.

- 7.10 It is for the Crown Prosecutor to decide whether a conditional caution is suitable and to identify appropriate conditions, although the police may take the lead in identifying cases which they think would be suitable for a Conditional Caution. The use of the Conditional Caution is governed by a statutory Code of Practice and guidance issued by the Director of Public Prosecutions. Conditions may involve paying compensation and apologising to the victim or attending counselling sessions for tackle drug or alcohol problems. Some two-thirds of Conditional Cautions issued to date have involved reparation to the victim.
- 7.11 Building on the success of the early implementation areas for Conditional Cautioning, we are rolling the Conditional Caution out nationally to at least one Basic Command Unit in every area of England and Wales by July 2007, with the aspiration of implementation across the country by April 2008.
- 7.12 We are also extending the conditions that can be set. We will be piloting unpaid work as a condition in a number of areas, in conjunction with the *Respect* programme. Subject to the passage of the Police and Justice Bill, we are also proposing to enable punitive conditions such as fines to be set.
- 7.13 We anticipate that the Conditional Caution will enable some 30,000 cases to be diverted from courts, creating some capacity for tackling more serious cases.

Tackling alcohol-related behaviour

- 7.14 We are also looking to develop more ways to tackle alcohol related offending. For some cases of drunk and disorderly behaviour, the penalty notice for disorder (PND) has proved to be a very effective, first approach, but where there are underlying patterns of alcohol misuse we need to do more.
- 7.15 Building on the success of the drugs intervention programme, we want to increase routes into alcohol counselling for those who would benefit from a short, sharp intervention. One approach is being developed as part of the Conditional Caution; we are rolling out attendance at alcohol advisory centres as a condition where an offence has been committed that merits a more robust response than a Penalty Notice for Disorder. And where an offender can pay, they are required to pay for the costs of their counselling session.

Young people

- 7.16 We also intend to legislate for a youth version of the Conditional Caution to provide a robust intervention that requires the young person to take responsibility for formal action to make amends and tackle underlying problems in a supported way. As for adults, the conditions will be set by the Crown Prosecution Service, in consultation with the police and the Youth Offending Team and free legal advice will be available. As with the adult Conditional Caution, the young person can refuse the conditions and go to court, but if they accept the Conditions, they will face prosecution for the offence they have committed if they agree to the conditions and do not carry them out.
- 7.17 We also want to build on the neighbourhood policing approach to do more to tackle the most minor problems with young people in a practical, common sense way.
- 7.18 Neighbourhood policing teams including police community support officers will be on the frontline in the respect drive, forging a new relationship with local people based on active co-operation rather than simple consent and helping to increase feelings of safety and confidence in the police within local communities. Central to this approach will be ways to deal with the types of low level misdemeanours where victims often prefer quick resolution such as a simple apology.
- 7.19 Simple responses for the lowest level misdemeanours are particularly important when dealing with young people. We are working with the Youth Justice Board and the Association of Chief Police Officers to develop effective restorative interventions for first misdemeanours where a formal criminal justice response that forms part of an offender's criminal record and is declarable to employers would be disproportionate. Getting a young person to apologise face to face and make amends is an important part of their learning. This is not about going soft on crime. A face to face apology is often quite difficult for a young person to do. Neighbourhood policing links need to be built with schools to embed restorative approaches where appropriate. We are looking to pilot this approach in four police force areas over the coming year.
- 7.20 But where behaviour merits a formal criminal justice response, we want to strengthen the robustness of our interventions. That is why we are also working with practitioners to developing a youth version of the Conditional Caution.

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