

News release

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Significant progress on courts backlog

The criminal trial backlog that built up during the Covid-19 pandemic has been significantly reduced but waiting times for the most serious crimes have doubled.

The Scottish Government and its justice system partners responded quickly and effectively to the pandemic through the £100m Recover, Renew and Transform programme. Additional court capacity and innovations such as remote jury centres in cinemas saw the number of outstanding trials drop from a peak of 43,606 in January 2022 to 28,029 in February 2023. Good use of modelling data by the Scottish Courts and Tribunal Service informed this successful approach.

But clearing the backlog of cases of serious assault, murder and rape - known as solemn cases - is proving much more difficult than summary cases such as common assault and motoring offences. Average waiting times for the most serious crimes - which disproportionately affect women and children - have more than doubled since 2020. These cases are not expected to be cleared until March 2026. By comparison, summary cases are on track to be cleared by March 2024.

There has been a year's delay to the publication of the Scottish Government's delivery plan for the continued recovery and reform of the criminal justice system. It was due in August 2022 but is now expected by summer 2023. Key risks to continuing recovery and successful reform include staffing pressures in the legal profession. There are also different views on the future use of technologies, such as virtual trials, which will need to be reconciled.

Stephen Boyle, Auditor General for Scotland, said:

"The criminal trial backlog that built up during the pandemic has been substantially reduced thanks to effective partnership working, good use of data and innovation.

"But while the overall number has come down, the wait times for the most serious crimes, such as rape, have increased. And those delays come with a human cost for victims, witnesses and defendants.

"That is why it's vital that the Scottish Government has a delivery plan in place as soon as possible to further address the backlog and reform the criminal courts system."

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Notes to Editor:

1. Average waiting times for solemn cases such as murder, serious assault, rape and sexual offences currently stand between 43 and 53 weeks.

- 2.** During the pandemic, the Scottish Courts and Tribunal Service made very effective use of modelling data to inform decision-making about the effects of the backlog and to identify solutions.
- 3.** The Scottish Courts and Tribunal Service estimates that within the normal operating capacity for criminal courts there would be around 20,000 outstanding scheduled trials at any given point.
- 4.** New initiatives, such as virtual trials, are currently being piloted within the criminal courts system that could fundamentally change how it operates. But it is too soon to gauge the impact of this work.
- 5.** Some stakeholders in the legal profession are resistant to the use of virtual trials because they believe they reduce access to justice. Others, such as victim support groups, feel that they improve the quality of evidence and reduce the distress of victims and witnesses.
- 6.** Audit Scotland has prepared this report for the Auditor General for Scotland. All Audit Scotland reports published since 2000 are available at www.audit-scotland.gov.uk
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