

FACULTY OF FORENSIC & LEGAL MEDICINE

of the Royal College of Physicians of London



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Registered Charity No 1119599

30 January 2025

The Rt Hon Sir Brian Leveson, KC
The Independent Review of the Criminal Courts,
9.10, 102 Petty France,
LONDON SW1H 9AJ

By email: independentreviewcriminalcourts@justice.gov.uk

Dear Sir Brian,

I write on behalf of the Faculty of Forensic & Legal Medicine, (FFLM), with our response to this very important Independent Review of the Criminal Courts, which the FFLM welcomes.

The FFLM is the standard setting body for forensic & legal medicine in the UK.^{1, 2}

The FFLM was founded in 2005 and its aims are:

'Raising standards in forensic and legal medicine; protecting vulnerable people'.

Additional information may be found here: [About - FFLM](#).

The observations and suggestions the FFLM wishes to make, are as follows:

Delays

This is the case in Magistrates Courts and the Crown Courts

Magistrates Courts

- Listing of cases, especially for trial is months ahead and this is not speedy justice for the defendant, the complainant (if there is one) or the public.
If defendants are remanded, this puts extra strain on HM Prison service
- As a result of these delays, there appears to be no review of cases/decisions. 'On the day' there are issues about disclosure or a request for an adjournment which has not been addressed in a timely way or for which a decision should have been made beforehand, and therefore are managed on the day, causing delays.
- Overall, the public know little about the law and the judicial process and are ill-prepared, it at all prepared, when they attend. As many are not legally represented this slows down the Court's work as the Legal Advisor and/or the Magistrates must support the individual.
 - This is a particular problem in many Road Traffic offences, where a defendant will not necessarily understand how the offence has occurred, as they may not understand what the wording of the legislation actually means.

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- Further, those whose offences are more serious and so disqualification is a likely sentence, may continue driving, with the potential of on-going risk to the public. This may be particularly so in relation to 'drug driving' where forensic toxicology has to be undertaken on blood and also in some cases of 'drink driving' where the sample is blood (or urine).
- Whilst it may be reasonable to 'overbook' a court list, on the basis some defendants will not attend, (as is done in the other public services e.g. NHS hospitals out-patient clinics), there has to be a balance to this.
- The infrastructure is limited:
 - Too few administrative staff to deal with emails or answer the phone, see above, causing delays or further adjournments
 - Interpreters not being booked, this appears especially to be so for cases listed via a summons
 - Breakdown problems with the IT systems/common platform/CVP
 - Too few probation staff and so delays in obtaining reports.

The potential solutions may be:

- Consideration of the number of staff, which often appears to be insufficient, their roles and how skills can be best used
- Case review becomes a standard, nearer the time of a trial; and within a summons or other papers or communications (or where someone is bailed to a hearing), the information is clear
- Proper assessment of the increase in Magistrates' Sentencing powers - granted, removed and now granted again - and other aspects of this review, for example, whether some 'either-way' offences should become 'summary only'. This may be a reasonable approach, as even with increase in Magistrates' sentencing powers, there is always the ability to send a case for sentencing to the Crown Court
- Ensuring any 'pilots', if they appear to have been successful in the area(s) where they take place, are properly resourced when implemented elsewhere, rather than an assumption they will work, without additional resources.

Inevitably, the solution(s) will not entirely depend on the Criminal Courts alone, as they work with other partners/stake-holders, e.g. police, forensic science services, probation, health, and, of course, witnesses of every type. Therefore, the FFLM suggests this is included in the review. Aspects which might be considered, include:

- How police budgets and forensic science service providers are resourced, as we understand, in the England & Wales there are fewer forensic toxicologists available. Whilst the FFLM does not know if this is a consequence of the loss of the Forensic Science Service (FSS), in 2012, perhaps it should be considered.

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- Consideration might be given to a comparison with the situation in Northern Ireland and Scotland, where, in each, there is a single police force and a single forensic science service provider.

Crown Courts

- Listing of cases, especially for trial is months or years ahead and this is not speedy justice for the defendant, the complainant(s) or the public.
If defendants are remanded, this puts extra strain on HM Prison service, usually for a longer time, because of the longer delays in the Crown Courts, even allowing for custody time-limits.
- The forensic clinicians deal with many more serious offences, e.g. serious sexual offences and other assaults, including Actual or Grievous Bodily Harm, and Non-fatal strangulation. The FFLM believes as these offences are more serious, and so will (or are more likely to) be heard in the Crown Courts, than the Magistrates Courts, it notes the issues of concern, here.
 - No or very late requests for statements
 - No or very late warnings for Court; whilst forensic clinicians understand this can arise, requests are often proactively made to be advised when a trial is listed, whether or not the clinician is warned. This assists the clinician in planning ahead and, for example, to avoid working at night, in the week(s) of the trial. Such notifications/alerts do not happen. I write here from personal, so anecdotal experience, attending a London Crown Court, for a trial of a defendant charged with rape, where I had examined the complainant. I went straight from the sexual assault referral centre, (SARC), where I had been working for over 24 hours, to Court to give evidence, despite explaining why this was not ideal. I was and remain concerned whether I gave my 'best evidence'.
 - The use of the 'streamlined forensic reporting', (SFR) process, provided by contracted services where the author of the report is not a forensic clinician, nor did they see/examine the patient and may no longer have a licence to practice from their regulatory body. Examples of such SFRs, have come to forensic clinicians, who are members of the FFLM, who act as expert witnesses to assist the Court. These highly experienced have raised concerns about the quality of the SFRs.
 - Furthermore, the SFR cannot properly address the 'nuances' and individuality of a complainant or suspect, which may be essential to consider.

Following the comment on SFRs, many people, including police and lawyers are not aware forensic and legal medicine, (FLM) is not a recognised medical specialty in the UK. One of the aims of the FFLM is to work towards the recognition of FLM as a specialty. Many forensic clinicians work to the highest standards and undertake post-graduate examinations to demonstrate their competency.³

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However, unlike almost all other areas of clinical practice, there is no requirement to do so. As a consequence, in Court, the FFLM is aware of forensic physicians being challenged, despite their extensive knowledge, experience and qualifications, with the observation:

'You are not on the GMC's specialist register, are you?'

Finally the FFLM believes the review will need to consider impact of the role of Forensic Science Regulator, (FSR), particularly in relation to the Statutory Code of Practice.⁴ This requires accreditation by UKAS of a service's 'forensic science activities', (FSAs), to the requirements of the code. Version 1 of the Statutory Code requires SARCs in England and Wales to be accredited by 02 October 2025.

The FSR has already prepared version 2 of the code, which is due to be presented to Parliament, imminently. This new version will include FSAs undertaken in Police Custody and also have a requirements for those providing expert evidence. The FFLM believes it is likely the FSR will have responded, anyway, as the Code covers a great variety of FSAs nearly all of which have relevance for the Criminal Courts.

The FFLM has not made comment on the possibility of an 'intermediate' court or the appeals process, but hopes these other observations and comments are of use.

Thank you again for the opportunity to contribute.

Yours sincerely,

Dr Bernadette Butler,
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GMC No, 2441223
President, FFLM

References

1. The Faculty of Forensic & Legal Medicine of the Royal College of Physicians [About - FFLM](#)
2. Hansard: [Hansard, March 18th 2009, Column 1164W](#)
3. FFLM Quality Standards in Forensic Medicine [FFLM Quality Standards in Forensic Medicine - FFLM](#)
4. The Forensic Science Regulator Code of Practice [Forensic science activities: statutory code of practice - GOV.UK](#)