

Appendix A

JUSTIFICATION FOR CONTINUED EXTENSION OF LIVE LINK PROVISIONS

Northern Ireland, similar to the other jurisdictions within the United Kingdom, has since the pandemic suffered a persistent backlog within its criminal court system, as that was the area of case progression most affected given the difficult balancing exercise between the Article 6 right to a fair trial and the precautionary measures adopted to protect public health during the pandemic and imposed in the interest of public safety, including for those persons working within the courts and tribunals. As occurred elsewhere within the United Kingdom, during the pandemic more cases were received than disposed of within the criminal courts, which meant that the number of outstanding cases (the backlog) arose.

The September 2025 Statutory Rule, SR. 2025 No.151, further extending the live links provisions within the Coronavirus Act 2020 (Schedule 27), will expire at midnight on 23 March 2026. Eight similar statutory rules¹ have been made since 2022. A separate submission has been drafted for the preparation and making of the Statutory Rule in March 2026 and the Justice Committee requires notice of the intention to make a further similar Statutory Rule.

The position adopted for the September 2025 Statutory Rule (see JCP\25\190) remains unchanged.

The details provided to the Assembly in the Explanatory Memorandum for the September 2025 SR provided some information on the justification for continued use of pandemic powers, pending the permanent provision for live links in the Justice Bill. This analysis has been updated.

The Department's analysis of live case numbers at any stage and of processing times for cases completed at courts in the years indicates the pandemic not only has had an impact but continues to do so.

For example, the total number of live Crown Court cases from the point at which a person is charged or informed has risen as a result of the pandemic, from 940 cases at 1 March 2020, to 1,672 on 1 January 2026 (up 77.9% from the figure on 1 March 2020).

For adult magistrates' court cases, from the point at which a person is charged or informed, the figure has also risen, from 25,604 cases on 1 March 2020, to 30,736 on 1

¹ Earlier Statutory Rules include SR 2022 No.24, SR 2022 No.227, SR 2023 No.46, SR 2023 No.138, SR 2024 No 72, SR 2024 No.173 , SR 2025 No.61, and SR 2025 No.151. All were approved by the Northern Ireland Assembly when the Assembly was constituted.

January 2026 (up 20.0% from the figure on 1 March 2020).

Despite the considerable efforts made to impact upon the number of active defendants, this remains 62.4% more defendants when compared to pre-Covid rates. Within this total, there were approximately 85.4% more defendants within the Crown Court and approximately 59.2% more defendants in the magistrates' courts (adult and youth) than there were on 1 March 2020.

The median number of days taken for a case to be completed in all courts, from the date an offence was reported until dealt with, was 189 days in 2024/25, up 26.8% from 149 days in 2019/20. It reached a high of 226 days for cases dealt with in 2021/22.

For cases at court stage, the most recent (January 2026) management information indicates that there were 11,808 defendants' cases at that stage of the criminal justice system compared to 7,269 in March 2020.

Both magistrates' and Crown Courts depend on the continuing ability of the system to use remote hearings. The roll out of the bespoke Justice Video Platform (JVC) was completed in mid-November 2025 (replacing SightLink) and there is currently a consistent level of video conferencing connections of approximately 19,000 per month. The Department considers this further extension is an appropriate legislative response to the backlog situation in the criminal courts which, but for the pandemic, would not be as substantial or persistent. While the pandemic is not the sole factor playing a role in the level of the backlog, it is considered to be one factor of some significance. It will take further time and resources to resolve this issue. Based on current disposal rates, it is anticipated the backlog will not be cleared until beyond 2026. This does not take account of the current industrial action by the Criminal Bar Association.

While most of the provisions made in the Coronavirus Act 2020 were temporary. Parliament made provision for the variation of the "sunset clause" expiry date for the temporary provisions of the Act. The Explanatory Notes for the 2020 Act record that the powers to alter an expiry date "should apply when they are needed." These regulations can be made for different purposes, on different days in different areas" but not for more than six months at a time.

Position in Neighbouring Jurisdictions

There have been reported similar impacts within the criminal justice system in England and Wales as well as Scotland. Within England and Wales as of December 2024, 75,000 cases were pending in the Crown Court, more than double the number from 2019, with cases being listed for trial as far away as 2029, having had £140 million

provided to aid recovery of the justice system. In October 2024 the Cabinet Secretary for Justice and Home Affairs reported that they continue to see the impact of the pandemic on criminal court backlogs, and although progress is being made on reducing those backlogs modelling by the Scottish Courts and Tribunals Service predicts that backlogs of solemn trials will persist above the target baseline until 2026-27. Scotland invested £180 million on recovery post pandemic. In December 2024, the Lord Chancellor announced, "***The Independent Review of the Criminal Courts, chaired by Sir Brian Leveson***". Part 1 of its report on the Criminal Justice System was published in July 2025. The Leveson Report acknowledges there is no single cause of the current problems faced by the criminal courts in England and Wales, but identifies the causes include:

- severe underfunding in the justice system, resulting in fewer available courts and significant backlogs;
- criminal trials becoming more evidentially complex and lengthy as a result of technological developments including large amounts of cell phone or computer data, and/or DNA analysis;
- an increased focus on proactive policing that was not accompanied by an increase in funding in other parts of the justice system; and
- the impact of the COVID-19 pandemic and industrial action by the criminal bar in 2022.

Despite England and Wales, through the Police, Crime, Sentencing and Courts Act 2022, introducing replacement provisions to the provisions initially created in 2020 in response to the pandemic for the criminal courts in England and Wales to allow remote working of courts, as of December 2024, 75,000 outstanding cases were reported as pending in the Crown Court, more than double the number from 2019, with cases being listed for trial as far away as 2029.

Scotland chose to extend through primary legislation, namely the Coronavirus (Extension and Expiry) (Scotland) Act 2021 and the Coronavirus Recovery and Reform (Scotland) Act 2022, certain temporary justice system provisions including the equivalent live link provisions for Scotland for a maximum period of two years to deal with backlogs that unavoidably built up during the pandemic within the justice system. There were two extensions of a number of those temporary justice measures initially by Scottish Statutory Instrument (SSI) 2023 No 172 and more recently SSI 2024 No 322, which extended to November 2025. The Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025 introduced as a Bill late 2024 into the Scottish Parliament, was passed on 7 October 2025 and gained Royal Assent on 19 November 2025.

In February 2025 it was reported that for the High Court of Justiciary, it is now common for two-and-a-half years to pass before a verdict is reached. The median time from offence to verdict was 951 days in the second quarter of 2024/25, nearly double the 482

days recorded in 2019/20. The delays are even worse for sexual offence cases given the median wait for non-historic sexual offence cases – including rape and sexual assault – has risen from 577 to 1,034 days. This is despite the number of outstanding scheduled trials having fallen by more than 50 per cent since the pandemic's peak and tackling delay remaining a priority for the Crown Office and government. Delays are also acute in the sheriff courts where most criminal cases are heard. The median wait for solemn cases has extended to over 18 months, up from less than 10 months five years ago. For non-historic sexual crimes, waiting times have increased from 456 to 674 days.