



House of Commons
Justice Committee

The role of the magistracy: follow-up

Eighteenth Report of Session 2017–19



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*Report, together with formal minutes
relating to the report*

*Ordered by the House of Commons
to be printed 12 June 2019*

Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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1 Background to this inquiry

The role of the magistracy

1. Magistrates, also known as ‘justices of the peace’ (JPs) or ‘lay justices’, are unpaid volunteers whose role is central to the justice system of England and Wales. They deal with more than 90% of criminal cases and a large proportion of non-criminal cases, particularly in the Family Court. Established more than 650 years ago, the magistracy’s role is traditionally underpinned by the twin principles of ‘local justice’ and ‘justice by one’s peers’. As of April 2018, there were approximately 15,000 magistrates in England and Wales—a reduction of some 50% over the preceding decade¹ and an annual decline of about 1,000 in each of the past two years, as magistrates who have retired tended not to be replaced.

2. Every magistrate is allocated to a Local Justice Area (LJA) as part of the local ‘bench’ of magistrates. Each bench has a Chair, elected annually, whose role is to provide leadership and support to the bench membership. Magistrates sit in the adult criminal court, the Youth Court—which deals with defendants aged between 10 and 17—or the Family Court. They generally sit as a panel of three, led by an experienced chair and supported by a legal adviser, who is an assistant to the Justice’s Clerk assigned to the particular LJA.

3. There has been no government review of the magistracy for many years, in spite of the centrality of the magistracy’s role within the justice system and a backdrop of constant change, including a marked reduction in magistrates’ court business,² restructuring of the courts estate and various initiatives designed to modernise the criminal justice system. The report of the Auld Review, published in 2001, did not recommend changes to the magistracy other than steps to improve training and increase diversity.³ In 2013, the then Justice Minister, The Rt Hon Damian Green MP, announced that the Government would work with magistrates to modernise their role, but that did not in the event lead to any substantial review or proposals for change.⁴ The Leveson Review of efficiency in criminal proceedings dedicated a chapter of its 2015 report to the magistrates’ courts, but this mainly considered how to improve case management and case progression.⁵

The Justice Committee’s 2016 inquiry

4. It was in this context that our predecessor Committee published its report *The role of the magistracy*, in October 2016.⁶ Evidence to the inquiry had indicated that the magistracy faced a range of unresolved issues related to its role and workload, and identified serious problems with recruitment and training. Concluding that it was “unfortunate that the Government’s evident goodwill towards the magistracy has not yet been translated into

1 In April 2008, there were 29,419 magistrates in England and Wales.

2 In 2007, an estimated 1.74 million defendants in criminal cases were proceeded against in the magistrates’ courts in England and Wales. In comparison, the magistrates’ courts received 1.51 million criminal cases in 2017.

3 In December 1999, the Lord Chancellor appointed Lord Justice Auld to conduct a review of the criminal courts in England and Wales. The report of his review was published in September 2001.

4 On 25 February 2015, in response to [Written Question 224617](#), the Government said it had no plans to publish a White Paper on magistrates’ reform before the General Election, and that the role of magistrates would be reviewed once rehabilitation and summary justice reforms had bedded down.

5 [Review of efficiency in criminal proceedings, The Rt Hon Sir Brian Leveson, January 2015](#): Chapter 5. The review was carried out at the request of the Lord Chief Justice after discussion with the Lord Chancellor.

6 [The role of the magistracy, Sixth Report of 2016–17](#), HC165, 19 October 2016

any meaningful strategy for supporting and developing it”, the Committee went on to recommend that, as a matter of priority, the Ministry of Justice (MoJ), together with the senior judiciary, should develop a national strategy for the magistracy.⁷

5. The Government response to the report (December 2016), including the views of the judiciary where relevant, did not expressly address the Committee’s recommendation for an overarching strategy for the magistracy.⁸ In subsequent correspondence, the then Secretary of State for Justice, the Rt Hon Liz Truss MP, stated that her department was working on an overarching judicial strategy within which magistrates would be a “key component”, but she was determined that magistrates should not be set apart from the wider judiciary.⁹

Our inquiry

6. In October 2018, we decided to conduct a short follow-up inquiry to allow us to gain a broad understanding of the main issues now facing the magistracy and establish what progress had been made since October 2016. We held two public evidence sessions, details of which may be found on p.52. We are grateful to all those who provided evidence then and in writing. We also held an informal seminar with 15 magistrates, many of whom had given evidence to the previous inquiry, and an informal note of those discussions is appended to this report. We particularly thank the Judicial Office for assisting us in setting up the informal evidence session and the magistrates who travelled to Westminster from all regions of England and Wales. We are also grateful to members of the senior judiciary for assisting in our inquiry.

7 [Ibid](#), paragraph 127

8 [Government response to the Justice Committee’s Sixth Report of Session 2016–17: the role of the magistracy. Cm 9368, December 2016](#)

9 [Letter dated 17 February 2017 from Rt Hon Elizabeth Truss MP, Lord Chancellor and Secretary of State for Justice, on the role of the magistracy, with an attachment on engagement with magistrates.](#)

2 Magistrates' morale

Our predecessor's main conclusions and recommendations

7. The 2016 Committee concluded that there was a risk of magistrates' morale being undermined by changes imposed on them without consultation and by a reduction in administrative support to unsatisfactory levels. There was sufficient evidence of low morale within the magistracy to cause the Committee concern.¹⁰ The Committee also recognised the difficulties in balancing the work of magistrates with that of salaried District Judges but considered it important to retain magistrates' competence and to value their time as volunteers.¹¹ The Committee recommended that magistrates be consulted on any further changes to the criminal justice system and that research be conducted into relations between magistrates and District Judges to identify good practice.¹²

How magistrates feel about their role

8. We were keen to establish whether, and to what extent, magistrates' morale had improved since 2016. The then Minister, Lucy Frazer QC MP, told us that "morale is up", on the basis that fewer magistrates were resigning and more being recruited. Duncan Webster JP, the National Leadership Magistrate also told us:

One of the indicators of low morale was the high resignation rate of the magistracy for a while. [...] I think a lot of that was to do with the introduction of technology into the courtroom that they were not up to speed with at that time. In some areas—in fact nationally—the training for magistrates in the new technology left something to be desired, and therefore their confidence in the technology perhaps was not as high as it should be. All those things have now been overcome, and therefore we do not have that high resignation rate now.¹³

9. Other evidence suggested, however, a more mixed picture. A survey of all sitting magistrates conducted by the Judicial Office and HMCTS in December 2017, to which around 2,750 magistrates responded, found that 80% of respondents had a strong feeling of satisfaction with their role, but 54% felt undervalued. Dissatisfying aspects of magistrates' work were found to be the time spent waiting for court sittings and lack of training and information relevant to their role.¹⁴ Mrs Jo King JP, Co-Chair of the Magistrates' Engagement Group, spoke about the survey findings:

Magistrates reported very high satisfaction with certain aspects of the role, particularly giving back to the community and the work that they do in court. But they also expressed frustrations with certain parts of the process—delays in courts, inefficiencies in court hearings, frustrations with CPS [Crown Prosecution Service] disclosure issues and suchlike. [...] We

10 Paragraph 11

11 Paragraph 18

12 The relevant Chapter of the Committee's report, including recommendations, can be found [here](#).

13 [Q5](#)

14 [Letter from Rebecca Aron, Legal Adviser to the Lord Chief Justice, on the results of a survey of magistrates, dated 1 May 2019 \(with attachment\)](#)

are also in an environment where there is a lot of change, which is causing some disquiet for magistrates because change is a difficult process to bring people through.¹⁵

10. Ian Clarkson JP suggested that low morale had “mutated into the form of a resigned approach that whatever representations are made by magistrates, or the Magistrates’ Association, the MoJ will do what it originally intended if it enables short term costs savings”. He gave an example of regional HMCTS staff “unilaterally” deciding to stop sending Family Court bundles to magistrates in advance of hearings because of concerns under the General Data Protection Regulation.¹⁶ He explained: “Now we either have to travel miles to court to collect them by hand on another day [...] or delay the start of the court day by reading bundles on the morning of the hearings.” This, in turn, would keep advocates waiting—creating additional legal aid costs in public law family cases.¹⁷

11. Our informal session with magistrates also identified mixed views on morale. There was evident frustration about poor organisational structure, inadequate support and failing IT, as well as concerns about a difficult relationship between magistrates and HM Courts and Tribunals Service (HMCTS); one participant described magistrates being treated like “commodities”. Participants thought that support from Justices’ Clerks and legal advisers had become less available because individuals in these roles had to cover wider geographical areas than previously. There had also been experiences of hearings being adjourned because of inadequate CPS resources, with magistrates wasting time as a result—a particular issue for those who had taken time off work to sit in court.

12. John Bache JP, the Chair of the Magistrates Association, told us that court closures “have a big effect on the morale of individual magistrates”, many of whom consider that local justice has “effectively disappeared.”¹⁸ This view was echoed by participants at the informal evidence session, who considered that the concept of local justice had largely been lost; they pointed out, for example, that magistrates sitting in an unfamiliar court lacked knowledge of the area where the alleged offence took place. Some participants were unhappy about being expected to travel long distances to sit in court, giving examples of round trips of more than 150 miles. Larger benches created by bench mergers were also thought to have had an adverse impact on magistrates’ attendance at bench meetings.¹⁹

13. Lady Justice Macur, the Senior Presiding Judge, recognised that anxiety could be generated at times of uncertainty. Her experience of speaking to magistrates affected by court closures suggested that they were more concerned about the effect on court users than the effect on themselves.²⁰ She said:

I personally think there is a real issue about the community having ownership of certain events, particularly in youth offending where there needs to be a knowledge of the steps that could be taken to divert, hopefully, young people away from the courts. There is an obvious need for familiarity

15 [Q2](#)

16 The General Data Protection Regulation (EU) 2016/679 (“GDPR”) is an EU regulation on data protection and privacy for all individuals within the European Union (EU) and the European Economic Area (EEA).

17 [MAG0004](#)

18 [Q9](#)

19 However, participants also suggested that bench mergers could encourage a more professional approach through magistrates sitting with unfamiliar colleagues, offsetting any tendency for a local bench to develop “bad habits”.

20 [Q107](#)

with a setting for those who access the courts for family reasons. When we get down to environmental causes and public interest causes, there is a real local interest ...²¹

14. We do not share the then Minister’s assessment that magistrates’ morale is “on the up”. Magistrates are dealing with reduced support and an apparent under-valuation of the time they give as volunteers, against a background of continuous change that many believe to be undermining the principle of local justice. This emphasises the urgent need for a national strategy for the magistracy. We recommend that the Government consult the senior judiciary and leadership magistrates to develop and adopt a national strategy for the magistracy at the earliest opportunity.

Relationships with District Judges

15. The evidence that we received suggested that relationships between magistrates and District Judges has improved—although some participants at our informal session thought there were still occasional problems with the allocation of cases. John Bache JP told us that magistrates enjoy working with District Judges, describing it as a “symbiotic relationship”.²² Jo King JP also described the relationship as “strong” and told us that District Judges are often to be found training magistrates formally and informally.²³ This was corroborated by evidence from our informal session with magistrates. Senior District Judge Arbuthnot also took the view that relationships between the two groups were “much, much better.”²⁴ She told us about the initiative she had taken in using meetings with lead judges as an opportunity to encourage District Judges to sit with two lay magistrates, reminding them that the magistrates had perhaps taken a day off work to sit in court only to find that their case was not being heard.

The judge is there and, obviously, has to go on sitting; they are paid, at the end of the day. I say, “Why don’t you sit with the justices? You can’t sit with all three, but sit with two.” [...] I am not saying that it is happening everywhere, but it is something that I am encouraging and it is happening more than it was.²⁵

This arrangement had been well received by magistrates, according to the participants at our informal session.

16. Lady Justice Thirwell, the Deputy Senior Presiding Judge, spoke with equal enthusiasm about the co-operative relationship between District Judges and magistrates in relation to the court reform programme:

In the end, we are all searching after the same goal, which is access to justice and the administration of justice, and doing it better, where we can, than we do it now. From the people I meet, I do not have any sense that there

21 [Q108](#)

22 [Q14](#)

23 [Q15](#)

24 [Q90](#)

25 [Q93](#)

is an issue of remoteness any more or that magistrates feel in some way disconnected from District Judge magistrates. I would have said that it was the contrary.²⁶

17. There has been a significant improvement in the relationship between the magistracy and District Judges since 2016. We welcome initiatives taken by members of the senior judiciary to promote collaboration between District Judges and magistrates by, for example, encouraging them to sit as mixed panels.

The leadership structure of the magistracy

18. Local Justice Areas (LJAs) create geographical boundaries for the work of magistrates' courts. They determine which court is used for initiating and listing cases and the enforcement of fines and community orders, as well as the leadership and management arrangements for the magistracy. Following a series of mergers, there are now 77 LJAs in England and Wales, as compared to 104 in February 2017. Each LJA has a "bench" of magistrates. Bench Chairmen, elected annually by their colleagues, provide leadership and pastoral support to their bench, as well as representation at regional level.

19. A new governance structure was introduced for the magistracy in 2018. Previously, the National Bench Chairmen's Forum (NBCF), consisting of an elected representative from each of seven regional forums, provided support to Bench Chairmen and a voice at national level. Following consultation with magistrates, the NBCF was replaced by the Magistrates' Leadership Executive (MLE), which has eight members appointed by the Lord Chief Justice after expressions of interest were invited. The MLE is headed by the National Leadership Magistrate, currently Duncan Webster JP. The rest of its membership is based on circuits, the six geographical regions in England and Wales on which the organisation of the courts is based.²⁷

20. Sitting above the MLE is the Magistrates' Liaison Group (MLG), which was established to consider "matters of policy and implementation relating to the operation of the magistrates' courts", as well as welfare and guidance for magistrates.²⁸ It is responsible for consulting magistrates on proposals for changes in business or governance. The MLG is led by the Senior Presiding Judge and members include the Senior District Judge (Chief Magistrate), the Chair of the Magistrates Association, the National Leadership Magistrate and HMCTS officials.²⁹

21. By sitting on Judicial Business Groups (JBG), regional representatives from the new MLE are also involved in the governance of circuits. The JBG for each circuit is responsible for advising the relevant Presiding Judge (who chairs the Group) on the exercise of his or her delegated responsibilities for ensuring effective conduct of the business of the magistrates' courts in the region. In addition, the JBG is responsible for ensuring that all magistrates undertake appropriate training and receive regular appraisal.

26 [Q91](#)

27 For the Southeast circuit, there is an additional MLE member representing London.

28 [Leadership and management of the judicial business of the magistrates' courts](#), February 2018, paragraph 3(a)

29 The Judicial Oversight Group, which sits alongside the MLE, is responsible for the arrangements for judicial business in the magistrates' courts, in accordance with the principles of the Criminal Procedure Rules and the principles of Transforming Summary Justice.

22. Lady Justice Macur, the Senior Presiding Judge, told us that “[i]t was determined that we needed to be ready for the change that would be brought about by the reform process, with the change in Local Justice Areas and the change in advisory committees.”³⁰ The Prisons and Courts Bill, which fell when Parliament was dissolved in May 2017, would have abolished LJAs, leading to magistrates being appointed nationally rather than allocated to a specific LJA. The Bill would also have allowed magistrates’ time to be allocated more flexibly and contained provisions to remove restrictions on allocating and transferring cases between magistrates’ courts. The then Minister, Lucy Frazer QC MP, when asked whether the Government still intended to abolish LJAs, said, “That is something we are still looking at.”³¹

23. Leading magistrates have offered positive views of the new leadership structure. Duncan Webster JP, the National Leadership Magistrate, said the structure aligned with that of the rest of the judiciary and spoke of “a very good working relationship” between the MLE, the Magistrates Association and the Chief Magistrate’s Office.³² John Bache JP, Chair of the Magistrates Association, said communications were helped by the fact that key members of the MLG—the Senior Presiding Judge, the Chief Magistrate, Mr Webster and himself—“know each other very well and we see each other an awful lot.”³³

24. Lady Justice Macur told us that the proposal to appoint rather than elect the National Leadership Magistrate was made after a debate in the MLG, which decided that an election might not give the role the required status:

It was the status of the role—the status of having the approval of the salaried judiciary in the new role that was being created. It was not something that was a popularity contest. It was something that required skills, to be demonstrated to those who demonstrated them in their salaried positions.³⁴

She acknowledged that that idea was “debated quite robustly” at the Annual General Meeting of the NBCF, where there were differing views, but said the prevailing view was that the new position should be “free from any taint of groups banding together” in an election process.³⁵

25. By contrast, Penelope Gibbs, Director of Transform Justice, thought the new recruitment process for leadership magistrates lacked transparency and that the specification of duties and responsibilities paid insufficient regard to diversity. She also reported that, when the NCBF surveyed magistrates on this question in 2017, more than half of respondents thought that leadership magistrates should be elected.³⁶

26. On 26 March 2019, we invited David Lammy MP to tell us about progress made on race equality issues in the criminal justice system since the publication of the report of his independent review of the treatment of, and outcomes for, Black, Asian and Minority Ethnic (BAME) individuals in the Criminal Justice System in September 2017.³⁷ At this

30 See Chapter 3 on advisory committees and Chapter 5 on the court reform programme

31 [Q162](#)

32 [Q10](#)

33 [Q12](#)

34 [Q85](#)

35 [Q87](#)

36 [MAG0002](#)

37 [The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, September 2017](#)

evidence session, Mr Lammy raised concerns about transparency in the magistracy system, observing that “[t]hey now have leadership magistrates, but the way they found them was not transparent. It feels like the same old people.”³⁸

27. Some magistrates participating in our informal seminar felt that the new leadership structure was remote from ordinary magistrates, and that they had experienced better communications under the former NCBF. However, the positive intentions behind the changes were recognised, and it was accepted that more time was needed to allow the new avenues of communication to bed down. Some detected a reluctance among magistrates to put themselves forward for local leadership roles: in one area, the bench had resorted to a lottery to select its chair, although in another there had been several candidates, leading to a ballot.

28. We accept the senior judiciary’s rationale for changing the leadership structure of the magistracy and recognise that these changes have had insufficient time to bed down, but stronger effort is required to improve channels of communication to engage with magistrates at ground level.

29. Local benches provide local leadership and important pastoral support for individual magistrates and help them make their voices heard regionally and nationally. Any operational efficiency to be gained from abolishing Local Justice Areas must not negatively affect that position.

38 [26 Mar 2019 - Progress in the implementation of the Lammy Review’s recommendations - oral evidence to the Justice Committee](#), Q37

3 Recruitment and diversity

Our predecessor's main conclusions and recommendations

30. The 2016 Committee noted a dearth of younger applicants to the magistracy, attributable in part to reluctance of employers to release staff. In some areas, there were difficulties in recruiting magistrates from Black and Minority Ethnic (BAME) groups. The Committee concluded that having a large cohort of magistrates approaching retirement presented an opportunity to promote diversity among those recruited to replace them. It supported doing more to encourage employers in all sectors to support magistrates who work for them. The Committee recommended a workforce planning exercise for the magistracy, together with a comprehensive strategy for increasing its diversity, a review of the magistrates' Financial Loss Allowance and the creation of a kitemark scheme for employers.³⁹

Recruitment of magistrates

31. No formal training or legal qualifications are needed to become a magistrate; anyone over 18 and under 65 may apply, provided they demonstrate six key qualities: good character; commitment and reliability; social awareness; sound judgement; understanding and communication; maturity and sound temperament. Forty-four Local Advisory Committees on Justices of the Peace are responsible for recruiting magistrates within their areas.⁴⁰ These committees assess annually how many new magistrates are needed, interview applicants and recommend successful candidates to the Lord Chief Justice, who delegates decisions on appointments to the Senior Presiding Judge. Local Advisory Committees also deal with allegations of misconduct by magistrates.

32. On 12 October 2017 the MoJ began consultation on changes to the committees' structure and operation. The response to the consultation set out the MoJ's intention to create 24 Advisory Committees responsible for operating a clear and consistent national recruitment process.⁴¹ Conduct would be handled by seven separate, regional committees. The advantages of introducing a common approach to recruitment were recognised by Jo King JP, who thought that "anyone applying to the magistracy should be confident they are applying to a consistent process and they are judged by consistent standards."⁴²

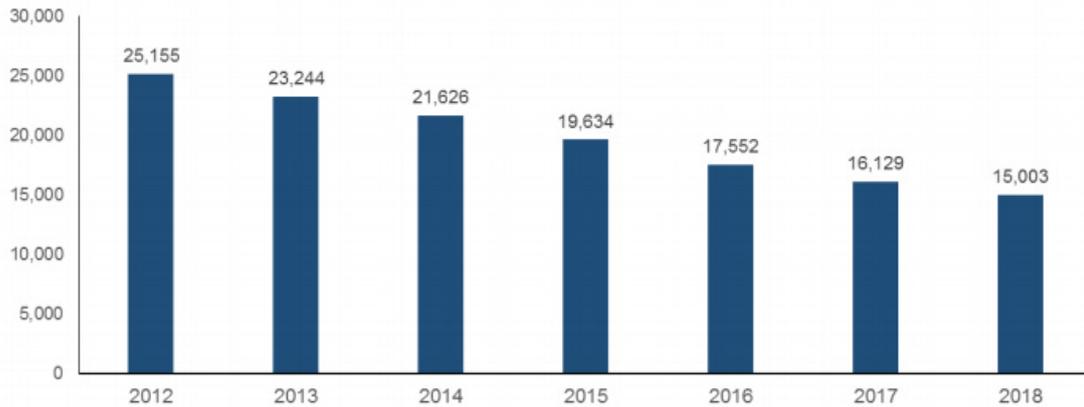
33. There was widespread agreement among those who gave evidence to us that the number of magistrates is insufficient. The following table illustrates the substantial fall in that number over the past six years.

39 The relevant Chapter of the Committee's report, including recommendations, can be found [here](#).

40 Most Local Advisory Committees are chaired by the Lord-Lieutenant for the area, who is the monarch's personal representative in each county of the United Kingdom.

41 [Mechanisms and Governance for Overseeing the Recruitment and Conduct of Justices of the Peace. Proposed changes to the organisation, management and functions of Advisory Committees on Justices of the Peace.](#) Ministry of Justice/HM Courts and Tribunals Service, March 2018

42 [Q17](#)

Total headcount of magistrates in England and Wales, 1 April 2012 to 1 April 2018

Source: Judicial Diversity Statistics, 2018

34. Magistrates at our informal evidence session reported shortfalls in some areas; one participant said that following a six-year moratorium on recruitment her local bench, which was supposed to have 250 magistrates, had a shortfall of 55, and was due to lose more magistrates soon. Transform Justice wrote:

The magistracy is facing a workforce crisis not of its own making. [...] The numbers of magistrates to be recruited are decided by staff in HMCTS and the judicial office. They appear to have made some major miscalculations in recent years. Since 2008 many regions have been forbidden from recruiting any magistrates for anything up to three years.⁴³

35. John Bache JP was emphatic that “[w]e need to recruit more magistrates.” He pointed out that magistrates quite frequently sit as benches of two, rather than three.⁴⁴ The Magistrates Association told us that during 2017–18 there were benches of two in nearly 40,000 court sessions, 15% of the total. The problem was, they said, likely to get worse in the next decade:

In addition, rota teams are experiencing great difficulty in finding magistrates to cover the necessary sittings. Magistrates are consequently contacted regularly and asked to take on additional sittings, often at short notice. Moreover, more than 8,000 magistrates will reach the age of 70 in the next decade and under current legislation will therefore need to retire.⁴⁵

36. Lady Justice Macur, the Senior Presiding Judge, accepted that there were “too few magistrates at the moment”.⁴⁶ Only in an exceptional case should two magistrates sit on a panel of two rather than three, she said, and recently “some very unfortunate consequences” had arisen from having panels of two:

If there is a difference of opinion in a case, whether on a determination of the facts or a decision as to the exercise of a discretion, particularly in family cases, that case must be adjourned for another bench. There is therefore a delay. It is particularly inimical in the case of children and the cases that

43 [MAG0002](#)

44 [Q16](#)

45 [MAG0001](#)

46 [Q95](#)

concern them, but it could be equally disastrous for someone who wants to have a trial disposed of and is waiting to know whether they are going to be convicted of a criminal offence that may deter them from travelling or job prospects.⁴⁷

37. Some participants in our informal evidence session with magistrates were concerned about the absence of funding for a national recruitment campaign to increase awareness of the magistracy and attract applicants for vacancies. The Magistrates Association called for “a very significant recruitment and training programme” to be taken forward without delay, with funding being made available for advertising and promotion, including in BAME communities. This could build on the work of the Association’s Magistrates in the Community programme, an initiative that aims “to demystify and promote the magistracy” through magistrates visiting schools and community groups.⁴⁸

38. The then Minister, Lucy Frazer QC MP, assured us that the Ministry of Justice was developing a three-year strategy for recruitment, which involved assessing how many and what sort of magistrates were required. That strategy was due to be rolled out in June 2019 after it had been tested with the judiciary and others.⁴⁹ She explained that several steps had been taken to speed recruitment: requests for criminal records checks would take place during the process, rather than at the end; applicants would undergo both interviews in one day, rather than three months apart; and applications would be sifted rather than facing an arbitrary cut-off after a set number of applications had been received.⁵⁰

39. The current shortfall in the number of magistrates is as frustrating as it was foreseeable. The Government’s failure to undertake the workforce planning exercise the Justice Committee recommended in 2016 has led to the current predicament. The new three-year strategy for magistrate recruitment and other initiatives to speed recruitment are welcome, but it is much to be regretted that it has taken a near crisis to prompt the Government into belated action.

Diversity within the magistracy

40. At our recent oral evidence session looking at progress in the implementation of his review, David Lammy MP made very clear his concerns about lack of diversity within the magistracy:

I want absolutely to emphasise that there are real issues with selecting white, working-class magistrates, never mind ethnic minority magistrates. Ethnic minority magistrates are well below the population. It is standing at about 11.5% at the moment. There are some areas, such as those from Somali, Roma and Gypsy backgrounds, where they are absolutely non-existent. That is a real problem. There is huge variation across benches and across the country.⁵¹

47 [Q95](#)

48 [MAG0001](#)

49 [Q145](#)

50 [Q146](#)

51 Oral evidence: [Progress in the implementation of the Lammy review’s recommendations](#), HC 2086. Q37

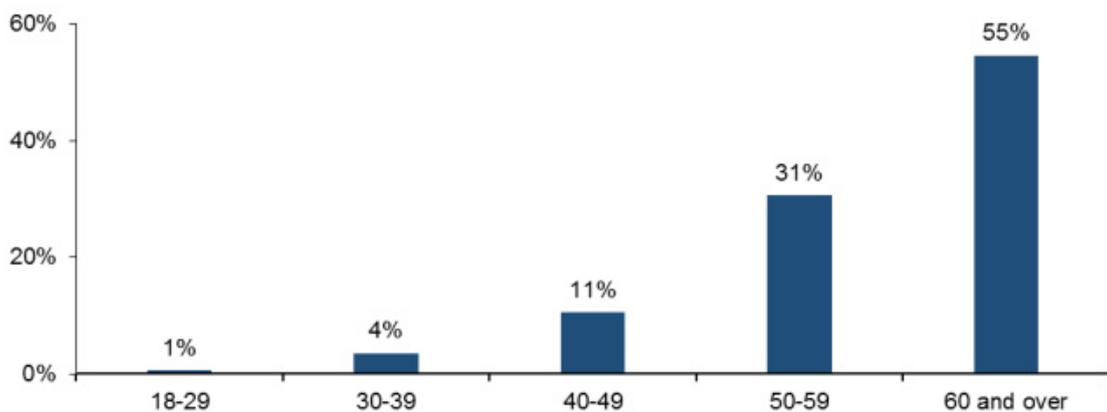
Judicial Diversity Statistics for 2018 record that 17% of non-legal members of Tribunals—a group comparable to magistrates—are from a BAME background. This means that non-legal members have higher BAME representation than that of the working age general population at all age groups.

41. The most recent judicial diversity statistics allow a comparison to be made between the profile of the magistracy in 2018 and its profile in 2016; little change has occurred.⁵²

- In 2018, 55% of magistrates were female and 12% declared themselves as BAME.⁵³
 - In 2016, 53% of magistrates were female and 10% declared themselves as BAME.
- In 2018, of the total of sitting magistrates (15,003), 85% were over 50.
 - In 2016, of the total of sitting magistrates (17,552), 86% were over 50.
- In 2018, 55% of magistrates (8,199) were over the age of 60.
 - In 2016, 57% of magistrates (9,997) were over the age of 60.
- In 2018, 4.2% of magistrates (631) were under the age of 40.
 - In 2016, 3.4% of magistrates (593) were under the age of 40.
- In 2018, there were no published statistics on disabled magistrates.
 - In 2016, the proportion of magistrates declaring a disability was 4%.

The 2018 statistics note that the average age of magistrates is 58.8 years. As illustrated by the following chart, the magistracy has a significant bias towards the over 50s.

The percentage of magistrates by age band, 1 April 2018



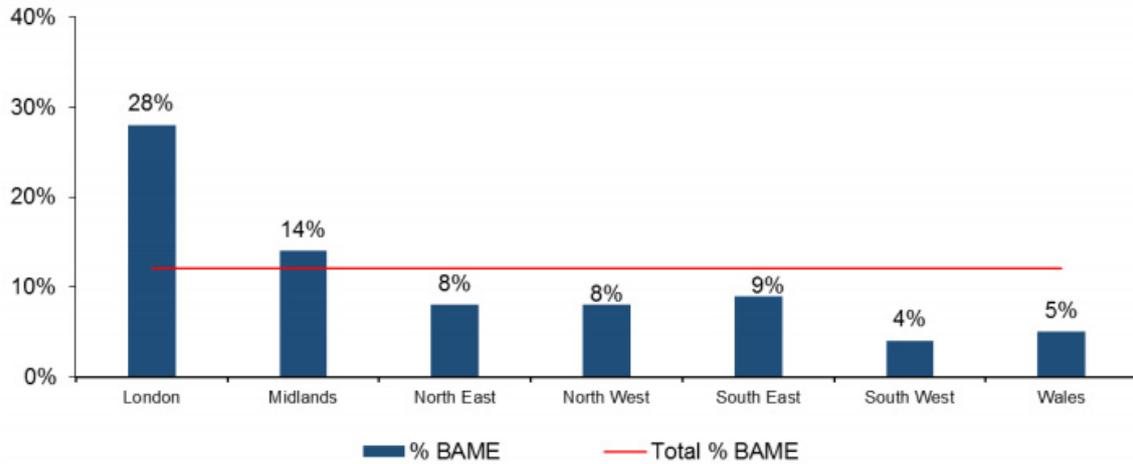
Source: Judicial Diversity Statistics, 2018.

52 See [Judicial Diversity Statistics 2018, published 12 July 2018](#); and [Judicial Diversity Statistics, published 28 July 2016 \(revised 2 December 2016\)](#)

53 Of the population as a whole, around 14% are from BAME backgrounds.

The chart below illustrates the regional variation in BAME representation within the magistracy, in comparison to the overall BAME representation among magistrates.

BAME representation of magistrates, by region, 1 April 2018



Source: Judicial Diversity Statistics, 2018

42. Some magistrates who participated in our informal evidence session observed that the ethnic diversity of their areas was not reflected in the membership of the local bench, in spite of efforts to overcome barriers. It was suggested that going into temples and mosques was more likely to be successful in attracting applicants from BAME communities than targeting efforts at professionals unlikely to have enough time to commit to the role. It was also suggested that more could be done by public bodies such as the NHS that have a high proportion of BAME staff.

43. The role of word-of-mouth recruitment to the magistracy was acknowledged by Lady Justice Macur:

It is often the case that the best recruiting tool we have at the moment is a magistrate making clear among their colleagues, friends and social circle what a worthwhile thing it is. That connection can bridge gaps.⁵⁴

However, in our informal session it was observed that, when applicants for the magistracy found out about the role through friends or by word of mouth, this could lead to new recruits being “more of the same”.

44. Social diversity within the magistracy concerned Penelope Gibbs of Transform Justice, who considered class “the elephant in the room”, and pointed out that no data are collected on existing magistrates or new recruits, although data on professional background are collected for paid judges. Similarly, participants in our informal session held a prevailing view that the magistracy lacks diversity in social background and that it is difficult to attract applications from a wide range of people. It was suggested that the application process itself might put off people from applying. In oral evidence, Jo King JP said:

There is still a tendency for the public to think of magistrates as being perhaps professional people, who are retired, and that is a very outdated

view of magistrates. We really need to support and encourage those people in what perhaps might have been called white or blue-collar jobs, who in my experience make excellent magistrates.⁵⁵

Mrs King said work was under way to address this issue, through representatives of HMCTS and the Judicial Office going out to talk to “non-standard groups of people”, such as employees and tenants of housing associations. In her view, a lack of awareness-raising and engagement with the public had been detrimental to diversity in recruitment: “[i]f the general population do not identify themselves as potential magistrates, then however good our recruitment process is, we are going to be dealing with a very limited pool of candidates.”⁵⁶

45. The Government’s response to the previous Committee’s 2016 report acknowledged that “the time is right” to consider carefully its approach to recruitment of magistrates. Lucy Frazer QC MP assured us that the Government was taking steps to increase diversity by advertising the recruitment of magistrates on social media—on LinkedIn and Twitter—and by targeting organisations such as mosques and universities. She commented: “We need to get different types of people in, and we are already trying to do that in a number of ways.”⁵⁷

46. We are disappointed that the Government’s acceptance, in 2016, that “the time is right” to consider carefully its approach to recruiting magistrates and its acknowledgement of the need for more proactive encouragement of applicants from all backgrounds has led to little progress so far. We remain unconvinced that the various steps mentioned by the then Minister amount to a sufficiently strategic approach. We recommend that the Government, working with the senior judiciary, revisit as a matter of urgency the 2016 Committee’s recommendation of a wider and more proactive advertising strategy for potential applicants to the magistracy.

47. We recommend that the Judicial Diversity Statistics be expanded to include data relating to the professional, social and educational background of magistrates, and that data collection be resumed on magistrates who declare a disability.

Employed magistrates

48. The survey of magistrates conducted by the Judicial Office and HMCTS found that two-thirds of respondents were not in employment. Of those employed, 40% were not given paid time off by their employer to cover magisterial duties.⁵⁸ Magistrates at our informal evidence session recognised that reluctance among employers to release employees for magisterial duties created particular barriers for younger people who wanted to become magistrates. They thought that employers had in previous times been more generous in allowing magistrates time off, but no longer appear to acknowledge the magistracy as a public service; a small business may not have the resources to provide cover, and someone

55 [Q17](#)

56 [Q18](#)

57 [Q147](#)

58 [Letter from Rebecca Aron, Legal Adviser to the Lord Chief Justice, on the results of a survey of magistrates, dated 1 May 2019](#)

trying to build a career may be reluctant to take time away from the workplace. Similarly, Lady Justice Macur thought that young people on a career ladder might be reluctant to “rock the boat” with their employer.⁵⁹

49. Lady Justice Macur also underlined the financial difficulties faced by small firms who cannot afford to lose employees for a half-day or a full-day court session, even though magistrates provided clear benefits that could be taken back to the workforce, such as teamwork and analytical skills. She considered that there were similar problems with certain public authorities, such as national health trusts and educational establishments, who cannot afford to release their employees, a point echoed by Ian Clarkson JP.⁶⁰

50. Duncan Webster JP suggested that such barriers might be overcome by making it a legal requirement for employers to release staff for magisterial duties, similar to the requirement that applies for jurors, although he recognised that this might not find favour in all quarters.⁶¹ Lucy Frazer QC MP emphatically dismissed this idea, saying: “That is not something we can think about”.⁶²

51. In 2016, the Government said it would “carefully consider” the Committee’s recommendation for a kitemark scheme to recognise and reward employers who support the magistracy. Ms Frazer said that the Government was not pursuing such a scheme but was “looking at a number of ways to try to encourage employers to allow their employees to take time off.”⁶³ She confirmed that the MoJ endorsed the Magistrates Association’s “Employer of the Year” award,⁶⁴ presented to Lloyds Bank in 2018, and said that her Department was “supporting individual employers.”

52. Witnesses voiced concerns about the Government’s failure to increase the Financial Loss Allowance for magistrates, unchanged since May 2010.⁶⁵ Jo King JP remarked: “Magistrates should not be subsidising HMCTS.”⁶⁶ One participant in our informal evidence session called the process for claiming the Allowance “labyrinthine”, as well as describing the claimable amount as very modest.

53. Lucy Frazer QC MP told us that the Government was reviewing judicial expenses and that magistrates’ expenses would be reviewed after that and in the course of this year.

54. We are greatly concerned about the barriers facing employees who want to become magistrates, which undermine efforts to widen the age profile of the magistracy. We recommend that the Government introduce a kitemark scheme for employers and bring forward proposals to legislate for mandatory employee release for magisterial duties.

59 [Q99](#)

60 [MAG0004](#)

61 [Q18](#)

62 [Q150](#)

63 [Q148](#)

64 Magistrates Association created its Employer of the Year award to recognise those organisations that are leading the way in supporting their employees to sit as magistrates.

65 In its response to the previous Committee’s report, the Government stated that it would conduct an overarching review of judicial expenses in 2017.

66 [Q55](#)

55. **We are disappointed by the delay in reviewing the Financial Loss Allowance, leading to a situation in which some magistrates are effectively subsidising HM Courts and Tribunals Service. This is clearly unacceptable. *The Government must fulfil its commitment to completing the review of the Financial Loss Allowance by the end of 2019.***

Retirement age of magistrates

56. Magistrates are subject to a mandatory retirement age of 70.⁶⁷ The Magistrates Association argues strongly that the law should be changed so that magistrates can continue to sit beyond this age, if an area has an identified need that cannot be met by recruitment alone; this would be consistent with the rule for judges, who can continue sitting if there is a business need.⁶⁸ The Association's Chair, John Bache JP, suggested that specific shortages of presiding justices and magistrates in the Family Court might be alleviated by this means.⁶⁹

57. Lady Justice Macur said the Judicial Executive Board recently decided that, "at the appropriate time", magistrates' ability to sit in what would otherwise be retirement would be brought into line with the position for the salaried judiciary, assuming there was a business need and a magistrate had continuing competence.⁷⁰ However, the Board thought that this should be considered alongside a review of the terms and conditions of the salaried judiciary; legislation would be necessary.

58. **We welcome the decision in principle of the Judicial Executive Board to allow magistrates to sit beyond the age of 70, subject to business need and continuing competence. We see no reason for a distinction to be made between magistrates and the paid judiciary in this regard.**

67 Under the Courts Act 2003

68 [MAG0001](#). A salaried judge's appointment can be extended up to the age of 72 in 12-month incremental stages, subject to a business case and his/her continuing competence, and thereafter up to 75 subject to the consent of the relevant heads of division, Senior Presiding Judge and Lord Chief Justice (see Q100)

69 [Q16](#)

70 [Q100](#)

4 Training and appraisal

Our predecessor's main conclusions and recommendations

59. Our predecessor Committee received evidence that funding for magistrates' training was less than adequate, and that training was not always of sufficiently high quality or breadth to equip magistrates for their role. The Committee concluded that the appraisal system was inadequate. It recommended more funding to the Judicial College for magistrates' training, a comprehensive review of magistrates' training needs and the introduction of a more robust appraisal scheme linked to continuing professional development.⁷¹

Magistrates' training

60. Training for the magistracy has a complex structure. It is supervised by the Judicial College, which works closely with the Magistrates Association in developing courses, while other training is delivered locally by Justices' Clerks and legal advisers. In April 2017, Training, Approvals, Authorisations and Appraisal Committees (TAAACs) became responsible for planning and overseeing local delivery of training in relation to the crime jurisdiction, while Family Training, Approvals, Authorisations and Appraisals Committees (FTAACs) oversee the training of family magistrates.

61. John Bache JP, the Chair of the Magistrates Association, told us it was "early days" so far as judging whether the new TAAACs were working more effectively than the multiple committees under the previous structure. However, the new Committees had encountered some problems with recruiting members "because the workload is quite excessive."⁷² Duncan Webster JP, the National Leadership Magistrate said that, as they cover larger areas than the benches, there was "a feeling from bench chairmen that the [TAAACs] [...] and FTAACs are in some way disconnected from the running of the benches." He went on to say that the Committees had "a lot on their plate", given the number of new magistrates that they had to train.⁷³

62. The adequacy of magistrates' training remains contested. While speaking highly of the mentoring system for new magistrates, many participants in our informal session thought that training was poor or insufficient. Participants observed that legal advisers, who are otherwise deployed in court, may not be skilled trainers. Employers were often reluctant to release magistrates for training. Training provision varied with location (for example, one area provided IT training while an adjacent area did not) and in some areas, magistrates were expected to travel long distances to participate in courses. Training combined with bench meetings was found to have encouraged attendance, however, and there was some support for online training, as it provided continuous access.

63. Duncan Webster JP thought that training should be reprioritised. Although the minimum level of training had been delivered throughout England and Wales, he thought it was a challenge for magistrates to keep pace with changes in practice and procedure on only 26 sittings per year.⁷⁴ He commented:

71 The relevant Chapter of the Committee's report, including recommendations, can be found [here](#).

72 [Q24](#)

73 [Q24](#)

74 As a minimum, magistrates are required to sit for 26 half days, or 13 full days, every year.

I think the training budget needs to be looked at by HMCTS [...] I do not think that meeting the minimum requirement is sufficient. Magistrates like to be competent. Being competent gives them confidence, and confidence equals morale.⁷⁵

64. John Bache JP added:

I think the public have a right to expect magistrates to be up to date as well. At the end of the day, magistrates can put people in prison for six months, or two years for children, and they can take people's children away from them. That is quite a powerful thing to do.⁷⁶

Mr Bache also drew a distinction between essential training and other training, not essential but relevant, and thought at least travelling expenses and some basic refreshments should be provided for evening training.⁷⁷ Some participants in our informal session spoke of their interest in having more training on wider issues such as prisons, the benefits system, county lines and domestic abuse, which could take the form of short briefings or discussions with the police.

65. Referring to the “dynamic environment” in which magistrates work, Jo King JP emphasised the importance of magistrates' personal commitment to keep up to date with law and procedure throughout their careers.

We have had a recent update to the “Equal Treatment Bench Book”, for example, which is not something on which magistrates will be formally trained but is presented in a very accessible way so that people can self-learn from it.⁷⁸

Senior District Judge Arbuthnot similarly noted that magistrates may use the Learning Management System, a digital training platform held by the Judicial College.⁷⁹

66. Jo King JP told us she thought that the annual training budget per magistrate had decreased to £26.⁸⁰ However, Senior District Judge Arbuthnot explained that calculation of training costs was not straightforward and that this figure did not give a complete picture:

A few years ago, training took place out of the courts, at conference centres and so on. It is now more in-house. Continuing training is almost always conducted in the courts. The cost is quite a difficult concept. It depends on how you calculate the costs of the legal advisers and whoever is delivering training.⁸¹

75 [Q19](#)

76 [Q19](#)

77 [Q23](#)

78 [Q19](#)

79 [Q102](#)

80 [Q22](#)

81 [Q102](#)

67. The Chairman of the Judicial College, Lady Justice Rafferty, provided a fuller explanation:

Designed and published by the College, the majority of magistrate training is funded by HMCTS and delivered locally. Funding does NOT come from the Judicial Office budget. The shift of training provision to HMCTS accommodation has reduced costs. Over time budget arrangements in HMCTS have changed, precluding a true comparator of costs from year to year.⁸²

She explained that a few courses provided directly by the College for local bench officers/ leadership magistrates⁸³ are delivered on the same basis as those for the salaried judiciary; funding for these is within the College funding scheme and not within the £26 to which Mrs King referred.

68. Lucy Frazer QC MP did not disagree that training was important but maintained that it was a judicial function, and that financial provision for it therefore fell to the Lord Chief Justice. Her Department made annual provision for judicial training, but “it is up to the judiciary to determine how it allocates that among every part of its jurisdiction.”⁸⁴ However, she accepted that under the Constitutional Reform Act 2005 the judiciary has a right to assert its requirements for supply in order to carry out its job independently.⁸⁵

69. We are concerned by the suggestion made by leadership magistrates that, taken as a whole, magistrates’ training—however funded and delivered—falls short of fulfilling the training needs of the magistracy. The importance of adequate training in supporting magistrates’ morale and building their confidence cannot be underestimated. We recommend that the Ministry of Justice increase its funding to HMCTS and the Judicial Office to allow additional investment in magistrates’ training. We further recommend that, when considering staff resources for courts, HMCTS give greater recognition to the important training role that Justices’ Clerks and legal advisers fulfil in relation to magistrates. We also recommend that attendance at evening or weekend training sessions should qualify for expenses and Financial Loss Allowance on the same basis as sitting days.

The appraisal scheme for magistrates

70. Under the new appraisal system for magistrates, appraisals are supposed to take place every two years, rather than three. Jo King JP told us that it would be “very interesting to see whether [this] is effective in identifying those magistrates who are not keeping up to date and competent.”⁸⁶ Senior District Judge Arbuthnot described the new appraisal scheme as being “fairly straightforward” compared to the scheme for judges, which uses the Judicial Appointments Commission competences. For magistrates, she said, it was more a matter of “ticking boxes, to make sure that the minimum is there”.⁸⁷

82 [Letter to the Chair of the Justice Committee from Lady Justice Rafferty, on the subject of training for magistrates, dated 12 March](#)

83 le, courses for bench, family panel, and TAAAC chairmen

84 [Q159](#)

85 [Q161](#)

86 [Q19](#)

87 [Q104](#)

71. The new appraisal system attracted some criticism from participants in our informal session. Some commented on variation in the quality of appraisals, although others thought the system in principle a good one and that appraisals were taken seriously. However, the “tick box” approach of the appraisal forms was considered by some as too process-centred, leading to a focus on minimum competence rather than performance improvement; the absence of “continuing professional development” (CPD) was also noted. Some considered that it would be more appropriate for an outsider to conduct an appraisal than a colleague on the same bench. It was suggested that poor performance was still not being tackled properly and that it was unsatisfactory to await the next appraisal to deal with performance issues. Participants also noted that cancelling appraisals (for example, because of illness) could allow people to “fall through the cracks” unless the appraisal was promptly rescheduled.

72. Senior District Judge Arbuthnot agreed that appraisal should be linked to training and assured us that the Magistrates’ Leadership Executive was conscious of this and “looking at it as a dual thing.”⁸⁸

73. We are concerned by evidence indicating that the new appraisal scheme for magistrates has shortcomings similar to those of the previous scheme and we welcome the steps being taken by the Magistrates’ Leadership Executive to align appraisals with training. In particular, we believe appraisal should focus on good or improved performance rather than the maintenance of minimum standards of performance. We recommend, as did our predecessor Committee in 2016, a mandatory scheme for continuing professional development linked to the scheme for magistrates’ approval, and we request, in the response to this Report, an indication of the range of CPD that might usefully be provided and the funding that might be required for these options.

5 Court closures and court reform

Our predecessor's main conclusions and recommendations

74. While our predecessor Committee had some evidence identifying advantages of rationalising the magistrates' courts estate, it received substantially more evidence of adverse impacts on both magistrates and court users. Although there were no objections in principle to the use of non-traditional buildings as court venues (so-called "pop-up" courts), it was recognised that certain risks were involved, such as the absence of a secure dock. Magistrates were enthusiastic about using modern technology but concerned about delays in implementation of infrastructure projects and the poor performance of some digital equipment. The Committee recommended a travel standard of no more than one hour by public transport for at least 90% of magistrates' court users and that urgent consideration be given to addressing security risks in non-traditional court buildings.⁸⁹

The court reform programme

75. Our predecessor's 2016 inquiry was completed just after the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals set out their vision for reforming courts and tribunals in England and Wales while maintaining a just, proportionate and accessible system.⁹⁰ Their statement outlined a transformation programme that would make greater use of technology, including development of a single online system for starting and managing cases across the criminal, civil, family and tribunal jurisdictions, replacing paper filing systems. Some cases would be handled entirely online and "virtual hearings" would be made available, using telephone and video links. As a result, fewer courts would be needed and court closures would fund a smaller court estate with more modern buildings. The Government had committed to investing more than £700 million in modernisation of courts and tribunals and over £270 million more in the criminal justice system.

76. In January 2018, the Ministry of Justice and HMCTS launched its "Fit for the future" consultation on the proposed strategy for HMCTS's approach to court and tribunal estate reform, set in the context of the wider modernisation work under the court and tribunal reform programme.⁹¹ Separate consultations were launched on the proposed closure of eight more courts, six of them magistrates' courts. The "Fit for the future" consultation sought views on a modified approach to the travel standard used to determine decisions on court and tribunal locations: that nearly all users should be able to attend a hearing on time and return within a day. We wrote to the then Minister in February 2018,⁹² questioning the proposed travel standard, for which—in our view—no convincing policy justification had been offered, and pointing out the potentially indirectly discriminatory impact on older people, women with young children and people with mobility impairments. We also expressed concerns about virtual hearings increasingly taking the place of physical access

89 The relevant Chapter of the Committee's report, including recommendations, can be found [here](#).

90 [Transforming Our Justice System. The Lord Chancellor, the Lord Chief Justice, and the Senior President of Tribunals, September 2016.](#)

91 [Fit for the future: transforming the Court and Tribunal Estate. MoJ/HMCTS, January 2018.](#)

92 [Letter dated 27 February 2018 from the Chair of the Justice Committee to Lucy Frazer QC MP, Parliamentary Under-Secretary of State for Justice, on Ministry of Justice consultation: For for the future.](#)

to hearing centres, in the absence of any evaluation of pilot projects. The then Minister said she would ensure that these points were taken into account as part of the decision-making process following the consultation.⁹³

77. The Government published its response to the “Fit for the future” consultation after we had finished taking evidence. One of the principles it has adopted for deciding on any further reduction to the court estate is that the journey times to court should be “reasonable”. This will include considering whether the “overwhelming majority” of users would be able to leave home no earlier than 7.30 am to attend their local court and return home by 7.30 pm using public transport if necessary; other factors such as the cost of journeys and the needs of vulnerable users will also be taken into account.⁹⁴

Magistrates’ court closures

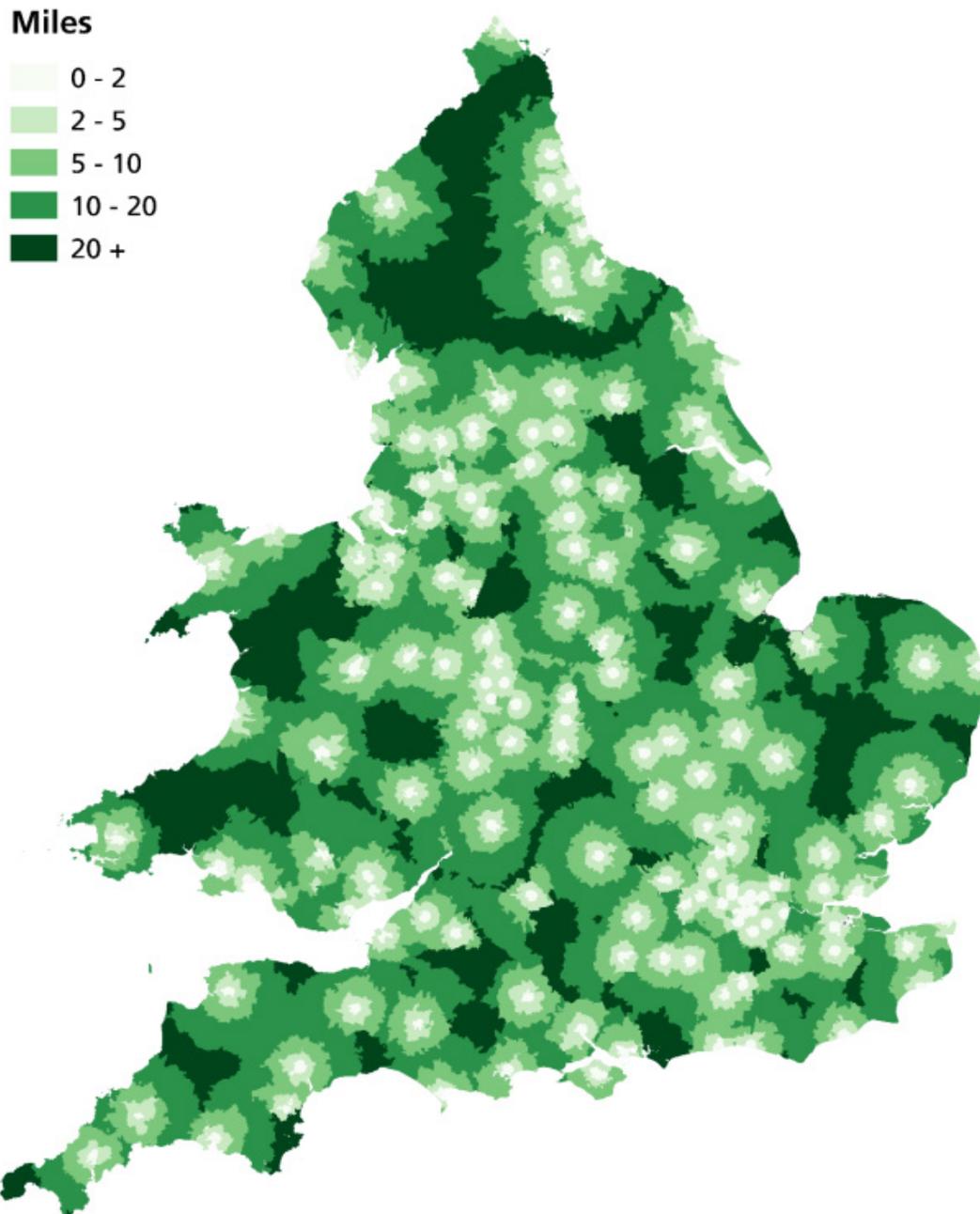
78. At the time of our predecessor’s report, 93 magistrates’ courts had been closed under the Court Estate Reform Programme of 2010–2014, and a further 43 were expected to close. Recent analysis by the House of Commons Library shows that, from 2010 to 2018, around half (162 out of 323) of magistrates’ courts were closed, with some significant local effects, as illustrated by the map below.⁹⁵

93 [Letter from Parliamentary Under-Secretary of State for Justice, relating to transforming the court and tribunal estate, dated 15 March 2018](#)

94 [Fit for the future: Government response to consultation. May 2019](#)

95 [House of Commons Library Briefing number CBP 8372, 27 November 2018](#)

Distance from output area to nearest Magistrates' courts, England and Wales: 2018.



Source: List of courts from HM Courts & tribunals service (CTS) Court Finder and from information supplied by HMCTS, Distance calculations from centre ONS Output Areas to nearest Magistrates' court. Note: Distances are straight lines between the two points, so may not reflect the distance by road or rail.

79. There appears to have been almost no research on the effect of magistrates' court closures on court users. An academic study of the effect of the HMCTS decision to leave the county of Suffolk with only one court house (in Ipswich) found that defendants, defence witnesses and defence advocates were perceived to have experienced particularly negative impacts; for example, a doubling of time and money costs and an increase in warrants for non-appearances by defendants living in certain parts of the county.⁹⁶

80. The topic of court closures was discussed at our evidence session with leadership magistrates. Jo King JP noted that some magistrates found replacement courts too far for travel: "I do not have figures for it, but, anecdotally, I am aware that most courts that have closed have lost some magistrates on the back of that closure."⁹⁷ There had also been an impact on recruitment patterns; Mrs King gave the example of Sussex Central, where the closure of Lewes magistrates' court in 2011 led to a high proportion of new recruits to the magistracy coming from Brighton and surrounds and few from further away in the area:

Common sense tells us that, if courts are reduced and become more centrally located in large urban areas, it is likely that the role of the magistrate will be less attractive to those who live a long distance from the court. These are unpaid roles. We already have magistrates in some areas who travel for two hours to get to their local court.⁹⁸

81. Duncan Webster JP spoke about "huge public concern" in North Yorkshire about proposed closure of the Northallerton courthouse, on which HMCTS had consulted in January 2018: "Nearly every magistrate on the bench wrote. County Councils wrote, as did district councils, parish councils and members of the public [...] There were over 800 responses"⁹⁹ Nonetheless, HMCTS decided to close the court.

82. Among magistrates who participated in our informal session, many had experienced adverse impacts from court closures, and some emphasised the effect on other court users as much as the impact on magistrates themselves. It was suggested that the Government's estimates of travel times were based on "flawed assumptions" that people travel by train; in reality, witnesses/defendants may have to catch two or three buses to get to court. Some questioned whether money was actually saved, as trials sometimes had to be adjourned when witnesses or defendants did not turn up. Others thought that more effort should be made to ensure that magistrates sit in their local court as far as possible, to reduce travel time.

83. Sue Furnival JP wrote about the impact of court closures on a particular area of considerable rural poverty:

from the county town, it is over £15 for a return rail ticket and a 3 hour round trip with a change in Birmingham. I can't find a bus which arrives by 10.00a.m. The journey is two and a half hours one-way and involves at least two buses. Most people who need to take public transport will live some distance outside the county town, adding to the time and expense.¹⁰⁰

96 [Access to Justice: Accessing the impact of the Magistrates' Court Closures in Suffolk](#), Dr Olumide Adisa, University of Suffolk, July 2018.

97 [Q27](#)

98 [Q28](#)

99 [Q31/32](#)

100 [MAG0005](#)

She told us that “brigading” remand cases to a courthouse in a different county meant that magistrates from her county who wanted to maintain competence in dealing with remands had a round trip of between 60 and 100 miles and were often reluctant to make the journey.¹⁰¹

84. The Senior Presiding Judge, Lady Justice Macur, accepted that uncertainty about court closures created anxiety for magistrates, although, in her view, this was sometimes “fear of the unknown.” She had concluded from her discussions with magistrates affected by court closures that, while some had been inconvenienced by having to travel further afield, their primary concern was for other court users. She considered that there might be several reasons underlying a magistrate’s decision to resign:

Undoubtedly, there are those who have said, “I cannot travel further than I have been travelling and, therefore, I will resign,” but it is wise to be cautious about those decisions, because it can often be an accumulation of things. [. . .] The largest number of resignations, rather than retirements, appeared to be at the time of the introduction of digital working.¹⁰²

85. The then Minister, Lucy Frazer QC MP, pointed out that 41% of courts had been operating at half their available capacity in 2016–17:

As the Ministry of Justice, we have to ask ourselves: do we keep open certain courts that are not being used well from a cost perspective when we could use that money better in other ways, or do we keep open a physical building because it has some advantages? We need to look very carefully at the best use of our money.¹⁰³

86. We also asked Ms Frazer whether any analysis was being done to understand why people do not turn up to their hearings. She responded by stating that “[p]eople have always not turned up to their hearings”; Departmental evidence did not indicate that closing courts had an impact on failure to appear. When we pressed her on this point, particularly with regard to anecdotal evidence of court closures affecting the ability of vulnerable young women to attend public law family hearings, she agreed that this should be considered carefully if further court closures were contemplated. She offered to provide us with data on “failure to appear” rates, but subsequently wrote to us to explain that this data was not in fact collected.¹⁰⁴

87. The programme of court closures has created challenges for magistrates that have not necessarily been recognised and has led many to worry about the impact on other court users. We intend to return to this issue in our forthcoming report on court and tribunal reforms.

88. We recommend that, as soon as practicable, the Ministry of Justice begins quarterly publication of national data on “failure to appear” rates in magistrates’ courts, broken down by region and by individual courts.

101 [MAG0005](#)

102 [Q107](#)

103 [Q163](#)

104 [Letter from Parliamentary Under-Secretary of State for Justice, on role of the magistracy follow up, dated 14 March 2019](#)

Digital processes and video links

89. Through its court reform programme, the Government aims to reduce the number of criminal cases requiring a physical court hearing by around half—from 1.7 million to 0.9 million each year—using the following means:

- Increasing the use of “virtual hearings”, allowing judges and magistrates to deal with defendants from a police station or prison using a video link. Subject to legislation, defendants will be allowed to enter guilty pleas online, removing the need for pre-trial hearings.¹⁰⁵
- Moving many services online, equipping courtrooms with the technology to handle digital evidence such as CCTV, and digitising many of the current paper and court-based processes. Subject to legislation, the conviction process for minor non-custodial offences (such as TV licence evasion) would be completed wholly online.
- Completing introduction of the “Common Platform”, a digital case management system which all organisations in the criminal justice system will use to share information so that cases can progress more easily. Victims and witnesses will be able to access the system for information on their case.

90. The then Minister, Lucy Frazer QC MP, emphasised that the reform programme would have a user-centred approach:

We need to ensure that we give [court users] justice, wherever and however that is, through the means most suitable and efficient for them. That might be in a traditional court building; it might in a civil case be with an online system, conducted completely remotely; it might be through some sort of video function; and it might be an alternative provision. [...] We have very open minds on all of them ... but we need to find out what works for individuals, at the same time as spending taxpayers’ money wisely.¹⁰⁶

91. We asked the then Minister how she proposed to mitigate the potential impact on the magistracy of abolishing LJAs—for example, having to travel to courtrooms further away and losing their connection with the local magistrates’ bench. Ms Frazer said that the future of LJAs was still being looked at. While she recognised the importance of local justice to magistrates, remote and video hearings would mean that it did not matter if a magistrate heard a case relating to another area. She continued:

we also need to ensure that we deliver an efficient, fair and proportionate justice system that works well. If we can do that through other means, we should look at them.¹⁰⁷

92. The Magistrates Association told us that it was supportive of the aims behind the reform programme, but that efficiency should never come at the expense of “a fair and effective system”. It had concerns about specific reforms:

105 Under existing “special measures” (Youth Justice and Criminal Evidence Act 1999), vulnerable and intimidated witnesses may be permitted to give their evidence-in-chief via video-recorded interviews.

106 [Q164](#)

107 [Q163](#)

including an overreliance on video and on ‘virtual hearings’, the delegation of powers from judicial officer holders to legal advisers, and (if it re-emerges) the so-called automated tier (where cases are dealt with online without the involvement of a judicial office holder ...). Magistrates are also concerned about an increasing reliance on technology, when at present it does not always work reliably.¹⁰⁸

Similar doubts about the functionality of video links were expressed by Phil Bowen, Director of the Centre for Justice Innovation, who said: “We have just shut courts and are hoping that our video technology works as it comes on stream. I do not think that is an adequate policy response.”¹⁰⁹

93. Participants in our informal evidence session considered video links suitable for police officers, expert witnesses and vulnerable witnesses, and more generally for first offences. However, there were concerns that they did not work well for vulnerable defendants, particularly if unrepresented. Another negative factor was considered to be reduction in support from court staff, as was the new postal requisition system,¹¹⁰ which some thought responsible for increases in “no shows” for hearings. The increase of litigants-in-person in the Family Court had put additional pressures on magistrates, as hearings took considerably longer and different skills were required.

94. Our evidence suggests that, while magistrates do not object in principle to the introduction of digital processes and video hearings, many have important concerns relating to access to justice, as well as concerns about the effect of reducing HMCTS staff at courthouses. We will consider these issues in more detail in the course of our inquiry into court and tribunal reforms.

The use of alternative court venues

95. The Ministry’s January 2018 consultation on its future strategy for the court and tribunal estate explained that the Government might consider whether supplementary court and tribunal provision could meet the needs of users who would find it difficult to travel to a courthouse, for example because of lack of access to transport, financial hardship or mobility problems.¹¹¹ The consultation paper listed some examples of court services being delivered from non-traditional buildings in England and Wales, including the following:

- Tunbridge Wells Borough Council Town Hall, which has been used for civil hearings every Tuesday since December 2016, using the formal setting of the Council chamber. Some additional measures were put in place to ensure that the venue met the HMCTS safety and security requirements, with HMCTS security officers having responsibility for the safety and security of all users of the court venue.
- Kendal Town Hall, which is used one day a month to hear suitable civil cases and one day a month to hear suitable magistrates’ court cases.

108 [MAG0001](#)

109 [Q75](#)

110 This allows defendants to be charged with a criminal offence/summonsed to court by way of a letter.

111 See footnote 91 above

- Llangefni Shire Hall, which is used one day a fortnight to hear suitable civil and family cases and one day a fortnight to hear suitable magistrates' court work.
- Plymouth Coroners Court has already been used for some magistrates' court hearings (non-custodial) and could also be suitable for some civil and tribunal hearings.

96. Concerns about security in these so-called “pop-up” courts had been identified by our predecessor committee, as alternative venues would not be expected to have a secure dock. Phil Bowen, Director of the Centre for Justice Innovation, supported the idea of alternative court venues, suggesting that the question of security had been “overdone”.¹¹² His organisation was seeking to engage with HMCTS on the idea of pop-up and flexible courts: “I am not saying that they agree with it, but we definitely have at least started that engagement”.¹¹³ On the other hand, Lady Justice Macur emphasised the importance of security in alternative court venues, recognising that the level of risk often depended on the type of case: “If you are coming to renew your fishing licence, for example, there is little chance that you will necessarily throw a strop ...”.¹¹⁴ Based on her visit to the court facility in Kendal, where cases were triaged, she observed:

First, there has to be a facility to separate different parties, if possible; there needs to be staffing and the facility to manage behaviour in the room being used as a courtroom. Unfortunately, sometimes you need a secure dock. In family cases, you need to separate parents who may not be seeing eye to eye on many things, or separate parents from local authority social workers.¹¹⁵

She also pointed out that previously the gravitas of a court room, “bespeaking the administration of justice, the rule of law”, could be an effective inhibitor “for the behaviour of those who perhaps are not now so inhibited.”¹¹⁶

97. Jo King JP thought that alternative venues would have fewer security issues arising from family cases than from crime cases. Nonetheless she was aware of the lengthy travel times often involved in bringing young defendants to court, particularly those remanded in custody who may have to travel in prison vans that are unsuitable for them. In her view, “it makes perfect sense to try to take the court to them rather than them to the court.”¹¹⁷

98. Participants in our informal evidence session had differing views on using alternative court venues. Some thought this was a good idea in principle because it “takes justice to the people”, but considered that careful decisions should be made about whether a case was suitable for this type of setting; for example, separate entrances might be needed for victims and defendants. It was suggested that a protocol might help determine which cases were suitable for non-traditional venues. Once again, security risks were mentioned, as well as the need for a compatible IT system. It was thought important to preserve the formality and integrity of the court setting, while making it a less distressing venue for hearing cases.

112 [Q71](#)

113 [Q73](#)

114 [Q113](#)

115 [Q114](#)

116 [Q122](#)

117 [Q35](#)

99. Lucy Frazer QC MP agreed that the question of security in alternative court venues was “one of the issues we need to think about.”¹¹⁸ While her Department maintained an open mind on what works, it had to satisfy everyone, including for example, victims of domestic abuse and members of the judiciary who had expressed concerns about their own security: “We have to weigh those things against our needs and the duty of the Lord Chancellor to provide a fair and efficient court system.”¹¹⁹

100. The Government response to its Fit for the Future consultation, published after we finished taking evidence, sets out its new principle on using what is now termed “supplementary provision”:

Where it is used, supplementary provision, which involves the delivery of court and tribunal services outside of the fixed HMCTS estate, must be safe, secure and accessible and also reflect the dignity and authority of the court. In exploring opportunities for using supplementary provision, intended to benefit court and tribunal users by increasing accessibility and flexibility, we will ensure that appropriate case types are heard in such venues.¹²⁰

101. **Since the 2016 Justice Committee report, there has been surprisingly little progress in developing alternative court venues to mitigate the impact of court closures, with the exception of limited pilot projects. We recognise that certain types of case may require the security standards of a conventional court room, but that many do not, and we believe that a triage system could identify suitable cases, particularly those where a vulnerable party is involved. *The new principle for identifying supplementary venues is a valuable starting point, but we recommend that HMCTS take urgent steps to put this principle into practice, with a particular focus on locations where court closures have had the greatest impact.***

118 [Q165](#)

119 [Q166](#)

120 [Fit for the future: Government response to consultation](#). May 2019. Paragraph 3.6

6 Expanding the role of magistrates

Our predecessor's main conclusions and recommendations

102. Most of the evidence received by the 2016 Committee supported the implementation of legislation to increase magistrates' sentencing powers from six months to 12 months for a single offence.¹²¹ The Committee was sympathetic to the idea of magistrates adopting problem-solving approaches¹²² for offenders sentenced to community penalties. It recommended that the MoJ produce a timetable for increasing magistrates' sentencing powers by commencing section 154 of the Criminal Justice Act 2003, first publishing any modelling of the impact of doing this, and that magistrates be empowered to supervise community orders and be consulted on any strategy for problem-solving courts.¹²³

Increasing magistrates' sentencing powers

103. John Bache JP, the Chair of the Magistrates Association, said that his organisation supported increasing magistrates' sentencing powers to 12 months' custody for a single offence, which he argued would relieve pressure on the Crown Court:

I think the Government are worried that the number of people in custody would increase. I do not think there is any evidence for that at all. When magistrates' powers were increased from six months to two years in the youth court, the number of young people in custody decreased very dramatically, from about 3,500 to about 900.¹²⁴

There was, however, no clear agreement on this point among magistrates at our informal evidence session. While it was recognised that pressures on the Crown Court would be relieved, it was also suggested that the level of appeals might increase, and that magistrates might need more training were they to take on this additional power.

104. Duncan Webster JP, the National Leadership Magistrate, said he was not aware of the MoJ having undertaken any modelling of the potential impact on the prison population of increasing magistrates' sentencing powers; it was unclear to him how many of the "either way" cases that found their way to the Crown Court—around 20 per cent of such cases—led to a conviction with a sentence that magistrates could have imposed with increased powers.

105. The NGOs who provided evidence did not agree on this issue. Philip Bowen, from the Centre for Justice Innovation, had "always publicly supported the idea that the magistrates' court should have higher sentencing powers", but Penelope Gibbs from Transform Justice could not support such a change unless modelling of its impact was first made available.

106. On this question, Senior District Judge Arbuthnot gave a cautious response:

121 By section 154 of the Criminal Justice Act 2003, which has yet to be commenced.

122 'Problem-solving' courts provide assessments of individual offenders, taking into account factors that may result in repeat offending and seeking to reach agreement with them in a non-confrontational way. Such courts rely on having a consistent relationship between the judge and the offender and often adopt a multi-disciplinary approach, bringing together several agencies at one site.

123 The relevant Chapter of the Committee's report, including recommendations, can be found [here](#).

124 [Q48](#)

I would be a bit worried that there would be an increase in prison sentences, but maybe I am wrong. I do not have a strong view, other than thinking it ought to be tested out, ideally in a city area first. [...] From what I have heard, prisons are very full at the moment and I would not want them to be fuller than they are already.¹²⁵

107. When we reminded the then Minister, Lucy Frazer QC MP, that the legislation necessary to increase magistrates' sentencing powers is already on the statute books, she told us that the matter was "still under consideration"; the Ministry of Justice was looking at sentences as a whole, including short sentences, and would engage with the Magistrates Association as a key organisation in that discussion.

108. In the report of our inquiry on *Prison population 2022: planning for the future*, we recognised that a key factor contributing to the size and composition of the prison population is the relative use of community sentences and custodial sentences.¹²⁶ The then Prisons Minister Rory Stewart recognised research evidence that short prison sentences made people more likely to commit crime, and wished to see fewer of them.¹²⁷ Our report repeated the recommendation made in our earlier report on *Transforming Rehabilitation* that the Government should introduce a presumption against short custodial sentences.¹²⁸

109. Our report on *Prison population: 2022* welcomed the Government's change of direction on the use of short prison sentences. We consider that short custodial sentences are less effective than community sentences, but in cases where custody is unavoidable we consider that magistrates should have the power to impose custodial sentences of up to 12 months in cases that would otherwise be sent to the Crown Court for sentencing. As part of its review of sentencing, the Government should implement this measure, subject to establishing a positive evidential basis for doing this from a suitable modelling exercise on the effects of such a step.

Magistrates' confidence in community sentencing

110. In spite of evidence of growing political support for reducing the use of short-term prison sentences in favour of making greater use of community sentences, the Magistrates Association noted that sentencers lack confidence in community sentences, identifying a range of reasons.¹²⁹ In summary:

- Sentencers having limited understanding of the content of community sentences, and in particular the community options available in their own area;
- Reduced influence over the content of community sentences; for example, sentencers can order an offender to carry out a maximum number of days on a rehabilitation activity requirement (RAR) but have no control over the number of days completed or activities undertaken; and

125 [Q131](#)

126 [House of Commons Justice Committee. Prison population 2022: planning for the future. Sixteenth Report of Session 2017–19, HC 483, April 2019](#)

127 Paragraph 236. This view was endorsed in the Government response to our report on the Prison Population 2022 ([7th Special Report - Prison Population 2022: Planning for the future: Government Response to the Committee's Sixteenth Report of 2017–19](#)).

128 [Justice Committee, Transforming Rehabilitation, Ninth Report of Session 2017–19, HC482, June 2018, para 251](#)

129 [MAG0001](#)

- Concerns about poor management of community sentences—for example, breaches not being brought to court appropriately and delays in the start of a programme that lead to offenders failing to complete their ordered number of unpaid work hours.

111. Jo King JP, Co-Chair of the Magistrates’ Engagement Group, observed that under the Transforming Rehabilitation regime there had been a drop-off in confidence in community sentences, not helped by the “one-step removal of the Community Rehabilitation Companies [CRCs] from magistrates”;¹³⁰ magistrates had also been concerned about delayed responses to breaches of community orders.¹³¹ She considered it important to make sure that magistrates “get adequate feedback from the CRCs and the National Probation Service on how an individual is performing on that order so that we can use them appropriately.”¹³² Similar concerns were expressed by Senior District Judge Arbuthnot, who commented:

When we give a community order, we expect the service to pick up the defendant and make sure that he starts complying with it, whether it is unpaid work or perhaps an alcohol treatment requirement. Curfew seems to work pretty well; if you give a curfew, it seems to be imposed immediately. [...] The worrying thing is that, if you do not have confidence that the punishment you are imposing will be carried out, you might think, “What about a prison sentence?”¹³³

In our report on *Transforming Rehabilitation*, we raised the issue of the decline in use of community sentences and concluded that sentencer confidence was a significant issue.¹³⁴ In our subsequent report on *Prison Population: 2022*, we drew similar conclusions; our recommendations included the following:

We wish to hear in response to this report how specifically [the Secretary of State] intends to improve sentencer confidence in community penalties, which is a significant issue and challenging to remedy. This should include an assessment of the adequacy of existing advice provided to courts by the National Probation Service about a defendant’s history to enable sentencers to base their decisions on a fuller understanding of offending behaviour and personal circumstances.¹³⁵

112. The Government’s response to our *Transforming Rehabilitation* report was published on 7 June 2019.¹³⁶ This confirmed the policy direction set out in the May 2019 response to its July 2018 consultation, “Strengthening probation, building confidence”, whereby responsibility for all offender management services will be held by the National Probation Service. The consultation response notes evidence suggesting that community

130 In 2013, the MoJ dissolved 35 self-governing probation trusts and created Community Rehabilitation Companies (CRCs) to manage offenders who pose a low or medium risk of harm, together with a National Probation Service (NPS) to manage offenders who pose higher risks. The NPS provides pre-sentence reports to the courts.

131 [Q46](#)

132 [Q47](#)

133 [Q128](#)

134 Justice Committee, *Transforming Rehabilitation*, HC482, June 2018, page 50

135 [House of Commons Justice Committee. Prison population 2022: planning for the future. Sixteenth Report of Session 2017–19, HC 483, April 2019](#)

136 [8th Special Report - Transforming Rehabilitation: Government Response to the Committee’s Ninth Report of Session 2017–19](#)

sentences are more effective in reducing reoffending than short custodial sentences and acknowledges that many sentencers feel they lack knowledge about what happens to an offender after sentencing. It goes on to state that “[i]mproving the confidence of sentencers in probation delivery will be an important element in making greater use of the full range of alternatives to custody available to the court [...]. It is our assessment that our revised model will allow us to more quickly rebuild this confidence.”¹³⁷

113. We are pleased that the Government’s response to its consultation on probation services acknowledges the need to improve the confidence of sentencers in probation delivery. We expect the Government to clarify, by the autumn of this year, its strategy for increasing sentence confidence in community sentences.

Additional roles for the magistracy

114. Many participants in our informal evidence session were open to the idea of magistrates taking on additional roles, although there was some uncertainty about how they might go about doing so, and what additional roles might be permitted.¹³⁸ We had our attention drawn to a successful project that runs in Northamptonshire, through which magistrates volunteer to take part in Youth Order Review Panels, giving regular, informal supervision outside of the courtroom to young people who are subject to youth referral orders.¹³⁹ In relation to this project, Lady Justice Macur referred to the “absolutely convincing” aptitude of the magistrates and told us that all safeguards (for example, relating to confidentiality and conflicts of interest) had been thought through.^{140,141}

115. Duncan Webster JP told us that magistrates were interested in a more extensive role, but thought that the idea of the Government considering opportunities to expand the role of the magistracy “has really hit the buffers.”¹⁴² He also noted that the problem-solving courts initiative that had gained momentum under Michael Gove [when Secretary of State for Justice] had not been resurrected.¹⁴³ Penelope Gibbs from Transform Justice expressed strong support for problem-solving approaches, although she referred to courts being under “huge pressures on time” that could undermine the quality of hearings.¹⁴⁴ Phil Bowen told us that the Centre for Justice Innovation had pushed extensively for problem-solving approaches, and drew our attention to a “flourishing” of such approaches in Scotland, where a problem-solving court had recently been opened in Aberdeen; and to new substance abuse and domestic violence courts in Northern Ireland. We were grateful to receive additional written evidence from the Centre providing more information about problem-solving approaches in Scotland and Northern Ireland, as well as identifying some of the initiatives in England and Wales, including the Family Drug and Alcohol Court (FDAC) model within the family jurisdiction.¹⁴⁵

137 [Strengthening Probation, Building Confidence: Response to consultation. Ministry of Justice, May 2019](#)

138 Our predecessor’s report noted the statutory provisions that currently permit, or restrict, the involvement of magistrates in supervising community orders (paragraph 112).

139 See [Proposed Model for the National Implementation of Court Reviews of Youth Rehabilitation Orders, Northamptonshire Youth Offending Service, February 2016.](#)

140 [Q125](#)

141 [Q125](#) We also received some helpful additional material from Dominic Goble JP about the increasing use in Northamptonshire of statutory provisions enabling the Youth Court to obtain better information about the child in question, to support decision-making ([MAG0003](#))

142 [Q51](#)

143 [Q42](#)

144 [Q63](#)

145 [MAG0006](#)

116. Lady Justice Macur emphasised that problem-solving courts take considerable resources: “[t]hey are very expensive to run and must be maintained; it cannot be a here today, gone tomorrow idea.”¹⁴⁶ Lucy Frazer QC MP accepted that “it would be helpful in some cases to have problem-solving approaches.” She referred to her own visit to an FDAC in London, which enabled her to “see how the multiagency approach worked,” but noted that not all local authorities were taking up the opportunity to have an FDAC.¹⁴⁷

117. Ms Frazer subsequently wrote:

I am persuaded by the logic that underpins problem solving courts, and respect the expertise of those advocating them. I am aware that experience has shown that there can be some challenges in applying this approach, including the upfront resource implications and the need for legislation to implement some of the models being proposed.¹⁴⁸

Acknowledging some of the “positive but limited” evidence on the value of problem-solving approaches such as FDACs, the then Minister undertook to re-look at the report of the 2016 working group and told us that she would be “very happy to provide you with its conclusions when I have done this, along with my assessment of any next steps.”¹⁴⁹

118. The Government response to our report on *Prison population: 2022*¹⁵⁰ suggested that there were “practical difficulties, particularly in the magistrates’ courts, of facilitating ongoing contact between offenders and individual sentencers in substantial numbers of cases.” However, the Government had “not discounted the possibility” that elements of the problem-solving approach, including court progress reviews, might contribute to better outcomes for offenders in appropriate cases; it would explore whether returns to court to revoke or review for good progress could support offenders’ motivation to desist.

119. The potential value of magistrates’ involvement in problem-solving approaches is well illustrated by the Northamptonshire example drawn to our attention. We welcome the Government’s willingness to explore whether elements of a problem-solving approach, including court progress reviews, might be used to contribute to better outcomes for offenders in appropriate cases.

146 [Q125](#)

147 [Q177](#)

148 [Letter from Parliamentary Under-Secretary of State for Justice, on role of the magistracy follow up, dated 14 March 2019](#)

149 [Ibid](#)

150 See footnote 127

7 A strategy for the magistracy

Our predecessor's conclusion and recommendation

120. The overarching conclusion of our predecessor Committee was that the magistracy faced a range of unresolved issues that had prompted little reflection or strategic decision-making on the part of policy makers in recent years. The Committee recommended that these should be addressed as a matter of urgency by development of an overarching strategy for the magistracy, to include workforce planning, consideration of the impact of court closures, promotion of the role—including to employers, and magistrates' training. The strategy should also consider the potential for expanding the role of magistrates, particularly within any future proposals for problem-solving courts.¹⁵¹

The Government's response did not address this recommendation.

121. On 12 January 2017, the Committee wrote to the then Secretary of State for Justice, Liz Truss MP, pressing a number of issues raised by its report and seeking clarification on the Government's response; it expressed surprise that the Government had not addressed that key recommendation for a national strategy for the magistracy.¹⁵² The Secretary of State replied:

I am determined though that we do not set magistrates apart from the wider judiciary; it is critical that they are rightly recognised as an integral part of the judicial complement. My department is currently working on an overarching judicial strategy, to ensure that we can build and support a modern, talented, engaged and highly-motivated judiciary that reflects the society it serves and cements our reputation for global excellence. The magistracy is, of course, a key component to which this strategy will apply. In the meantime, I am confident that each of the areas you had envisioned for inclusion within such a strategy are already being addressed within a cohesive and coherent framework.¹⁵³

Progress on a national strategy since 2016

122. During this inquiry, leadership magistrates told us that a judicially-led working group is developing a national strategy for the magistracy, led by the Magistrates Leadership Executive and working with the Magistrates Association and the Chief Magistrate's Office.¹⁵⁴ According to Jo King JP, the aim of the strategy is to bring together a three-year plan to develop the magistracy, covering a range of work relating to areas such as recruitment and advisory committees "so there was an oversight process and we could identify the gaps, and then work with the agencies... in particular the MoJ, in resolving some of those."¹⁵⁵ Duncan Webster JP, the National Leadership Magistrate, acknowledged

151 The relevant Chapter of the Committee's report, including recommendation, can be found [here](#).

152 [Letter dated 12 January 2017 from Bob Neill MP, Chair, Justice Committee, to Rt Hon Elizabeth Truss MP, Lord Chancellor and Secretary of State for Justice, on the Government's response to the Committee's 6th Report on the Role of the magistracy](#)

153 [Letter dated 17 February 2017 from Rt Hon Elizabeth Truss MP, Lord Chancellor and Secretary of State for Justice, on the role of the magistracy, with an attachment on engagement with magistrates](#)

154 [Q52](#)

155 [Q52](#)

that the availability of resources was holding back this work, not only in terms of funding for more initiatives, but because the MoJ and HMCTS were losing many members of staff as a result of the reform programme and the establishment of centralised service centres.¹⁵⁶ He commented:

the initiatives that we want to take forward need the support and the resources of HMCTS staff. Things have to wait in a queue until they have staff available to support us in delivering some of these initiatives.¹⁵⁷

123. Participants in our informal evidence session were aware of the development of the magistracy’s national strategy, but considered it “early days” for this initiative. There was general support for the idea of the Government developing a national strategy for the magistracy, provided its purpose was clear. It was recognised that any strategy would be of limited value unless properly resourced, as well as being subject to regular review.

124. The then Minister, Lucy Frazer QC MP, confirmed that the impact of policy reform and the future direction of the magistracy were being considered “as an ongoing process, rather than one with an end date.” She said her Department was working closely with the magistracy in development of its national strategy. In addition, the Government had a wider strategy for all judicial office holders, into which its own strategy for the magistracy was incorporated.¹⁵⁸ When we put it to her that the Government was obliged to ensure adequate funding for the magistracy,¹⁵⁹ she agreed that the Lord Chancellor had a duty to ensure a fair and efficient court service and “obviously funding is part of that”.¹⁶⁰

125. Ms Frazer told us that the Government had no dedicated policy team for the magistracy:

We have officials in a number of Departments who work on a variety of matters connected to and concerning the magistracy. We have people in the reform team. The magistracy are engaged at every stage of our reform. There would be liaison with the magistracy on reform. There are other parts of judicial liaison where HMCTS liaises with the magistracy.¹⁶¹

126. We welcome the initiative of leadership magistrates in developing a national strategy. However, their strategic objectives are unlikely to be achieved without the backing of HMCTS funding. We doubt that this initiative can fill the gap created by the Government’s failure to develop an adequately funded, overarching national strategy for the magistracy. Merely identifying the magistracy as a component within the Government’s strategy for the judiciary as a whole is inadequate to recognise the distinctive and pivotal role of 15,000 magistrates working as unpaid volunteers within the criminal justice system.

127. As in the 2016 report, we urge the Government, in consultation with the senior judiciary and leadership magistrates, to develop and adopt an overarching strategy for the magistracy, to include workforce planning and recruitment; promotion of the role

156 [Q53](#)

157 [Q53](#)

158 [Letter from Parliamentary Under-Secretary of State for Justice, on role of the magistracy follow up, dated 14 March 2019](#)

159 Under section 3(6)(b) of the Constitutional Reform Act 2005

160 [Q196](#)

161 [Q191](#)

to employers and to a diverse range of potential applicants; resources for magistrates' training; and mitigation of the impact on magistrates of court closures. The strategy must be supported by adequate funding. We further recommend that the Ministry of Justice establish a dedicated policy team to oversee all aspects of its support for the magistracy.

Conclusions and recommendations

Magistrates' morale

1. We do not share the then Minister's assessment that magistrates' morale is "on the up". Magistrates are dealing with reduced support and an apparent under-valuation of the time they give as volunteers, against a background of continuous change that many believe to be undermining the principle of local justice. This emphasises the urgent need for a national strategy for the magistracy. *We recommend that the Government consult the senior judiciary and leadership magistrates to develop and adopt a national strategy for the magistracy at the earliest opportunity.* (Paragraph 14)
2. There has been a significant improvement in the relationship between the magistracy and District Judges since 2016. We welcome initiatives taken by members of the senior judiciary to promote collaboration between District Judges and magistrates by, for example, encouraging them to sit as mixed panels. (Paragraph 17)
3. We accept the senior judiciary's rationale for changing the leadership structure of the magistracy and recognise that these changes have had insufficient time to bed down, but stronger effort is required to improve channels of communication to engage with magistrates at ground level. (Paragraph 28)
4. *Local benches provide local leadership and important pastoral support for individual magistrates and help them make their voices heard regionally and nationally. Any operational efficiency to be gained from abolishing Local Justice Areas must not negatively affect that position.* (Paragraph 29)

Recruitment and diversity

5. The current shortfall in the number of magistrates is as frustrating as it was foreseeable. The Government's failure to undertake the workforce planning exercise the Justice Committee recommended in 2016 has led to the current predicament. The new three-year strategy for magistrate recruitment and other initiatives to speed recruitment are welcome, but it is much to be regretted that it has taken a near crisis to prompt the Government into belated action. (Paragraph 39)
6. We are disappointed that the Government's acceptance, in 2016, that "the time is right" to consider carefully its approach to recruiting magistrates and its acknowledgement of the need for more proactive encouragement of applicants from all backgrounds has led to little progress so far. We remain unconvinced that the various steps mentioned by the then Minister amount to a sufficiently strategic approach. *We recommend that the Government, working with the senior judiciary, revisit as a matter of urgency the 2016 Committee's recommendation of a wider and more proactive advertising strategy for potential applicants to the magistracy.* (Paragraph 46)
7. *We recommend that the Judicial Diversity Statistics be expanded to include data relating to the professional, social and educational background of magistrates, and that data collection be resumed on magistrates who declare a disability.* (Paragraph 47)

8. We are greatly concerned about the barriers facing employees who want to become magistrates, which undermine efforts to widen the age profile of the magistracy. *We recommend that the Government introduce a kitemark scheme for employers and bring forward proposals to legislate for mandatory employee release for magisterial duties.* (Paragraph 54)
9. We are disappointed by the delay in reviewing the Financial Loss Allowance, leading to a situation in which some magistrates are effectively subsidising HM Courts and Tribunals Service. This is clearly unacceptable. *The Government must fulfil its commitment to completing the review of the Financial Loss Allowance by the end of 2019.* (Paragraph 55)
10. We welcome the decision in principle of the Judicial Executive Board to allow magistrates to sit beyond the age of 70, subject to business need and continuing competence. We see no reason for a distinction to be made between magistrates and the paid judiciary in this regard. (Paragraph 58)

Training and appraisal

11. We are concerned by the suggestion made by leadership magistrates that, taken as a whole, magistrates' training—however funded and delivered—falls short of fulfilling the training needs of the magistracy. The importance of adequate training in supporting magistrates' morale and building their confidence cannot be underestimated. (Paragraph 69)
12. *We recommend that the Ministry of Justice increase its funding to HMCTS and the Judicial Office to allow additional investment in magistrates' training. We further recommend that, when considering staff resources for courts, HMCTS give greater recognition to the important training role that Justices' Clerks and legal advisers fulfil in relation to magistrates. We also recommend that attendance at evening or weekend training sessions should qualify for expenses and Financial Loss Allowance on the same basis as sitting days.* (Paragraph 69)
13. We are concerned by evidence indicating that the new appraisal scheme for magistrates has shortcomings similar to those of the previous scheme and we welcome the steps being taken by the Magistrates' Leadership Executive to align appraisals with training. In particular, we believe appraisal should focus on good or improved performance rather than the maintenance of minimum standards of performance. *We recommend, as did our predecessor Committee in 2016, a mandatory scheme for continuing professional development linked to the scheme for magistrates' approval, and we request, in the response to this Report, an indication of the range of CPD that might usefully be provided and the funding that might be required for these options.* (Paragraph 73)

Court closures and court reform

14. The programme of court closures has created challenges for magistrates that have not necessarily been recognised and has led many to worry about the impact on other court users. We intend to return to this issue in our forthcoming report on court and tribunal reforms. (Paragraph 87)

15. *We recommend that, as soon as practicable, the Ministry of Justice begins quarterly publication of national data on “failure to appear” rates in magistrates’ courts, broken down by region and by individual courts.* (Paragraph 88)
16. Our evidence suggests that, while magistrates do not object in principle to the introduction of digital processes and video hearings, many have important concerns relating to access to justice, as well as concerns about the effect of reducing HMCTS staff at courthouses. We will consider these issues in more detail in the course of our inquiry into court and tribunal reforms. (Paragraph 94)
17. Since the 2016 Justice Committee report, there has been surprisingly little progress in developing alternative court venues to mitigate the impact of court closures, with the exception of limited pilot projects. We recognise that certain types of case may require the security standards of a conventional court room, but that many do not, and we believe that a triage system could identify suitable cases, particularly those where a vulnerable party is involved. *The new principle for identifying supplementary venues is a valuable starting point, but we recommend that HMCTS take urgent steps to put this principle into practice, with a particular focus on locations where court closures have had the greatest impact.* (Paragraph 101)

Expanding the role of magistrates

18. Our report on *Prison population: 2022* welcomed the Government’s change of direction on the use of short prison sentences. We consider that short custodial sentences are less effective than community sentences, but in cases where custody is unavoidable we consider that magistrates should have the power to impose custodial sentences of up to 12 months in cases that would otherwise be sent to the Crown Court for sentencing. *As part of its review of sentencing, the Government should implement this measure, subject to establishing a positive evidential basis for doing this from a suitable modelling exercise on the effects of such a step.* (Paragraph 109)
19. We are pleased that the Government’s response to its consultation on probation services acknowledges the need to improve the confidence of sentencers in probation delivery. We expect the Government to clarify, by the autumn of this year, its strategy for increasing sentence confidence in community sentences. (Paragraph 113)
20. The potential value of magistrates’ involvement in problem-solving approaches is well illustrated by the Northamptonshire example drawn to our attention. We welcome the Government’s willingness to explore whether elements of a problem-solving approach, including court progress reviews, might be used to contribute to better outcomes for offenders in appropriate cases. (Paragraph 119)

A strategy for the magistracy

21. We welcome the initiative of leadership magistrates in developing a national strategy. However, their strategic objectives are unlikely to be achieved without the backing of HMCTS funding. We doubt that this initiative can fill the gap created by the Government’s failure to develop an adequately funded, overarching national strategy for the magistracy. Merely identifying the magistracy as a component

within the Government's strategy for the judiciary as a whole is inadequate to recognise the distinctive and pivotal role of 15,000 magistrates working as unpaid volunteers within the criminal justice system. (Paragraph 126)

22. *As in the 2016 report, we urge the Government, in consultation with the senior judiciary and leadership magistrates, to develop and adopt an overarching strategy for the magistracy, to include workforce planning and recruitment; promotion of the role to employers and to a diverse range of potential applicants; resources for magistrates' training; and mitigation of the impact on magistrates of court closures. The strategy must be supported by adequate funding. We further recommend that the Ministry of Justice establish a dedicated policy team to oversee all aspects of its support for the magistracy. (Paragraph 127)*

Appendix—note of informal evidence session with magistrates, 29 January 2019

Committee Members present

Robert Neill (Chair), Mrs Kemi Badenoch, Robert Courts, Janet Daby, Mr David Hanson, Victoria Prentis, Marie Rimmer.

Participants

The seminar was attended by 15 magistrates drawn from different regions of England and Wales (North Wales, South Wales, London, Black Country, Shropshire, Wiltshire, Herefordshire, Hertfordshire, Carlisle, Northamptonshire, Leicestershire and Rutland, Berkshire, North and South Northumbria). The Chair emphasised the Committee's gratitude to all the magistrates who attended the event, in particular those who travelled long distances.

After a brief introduction from the Chair, participants and Members divided into two smaller groups, both covering broadly the same topics. This note summarises the main points raised during discussions.

1. The morale of the magistracy

Discussions indicated mixed views on the morale of the magistracy. One participant thought that magistrates' morale had picked up since the recent structural changes affecting them (especially court closures) had bedded in. Another thought that magistrates were generally happy with their role when sitting in court, but experienced frustration when faced with poor organisational structure, inadequate support or failing IT. It was suggested that some magistrates had a difficult relationship with HM Courts and Tribunals Service (HMCTS)—one participant thought that magistrates were treated like “commodities”. A Family Court magistrate was unhappy about a new requirement to collect case bundles from the court to see them in advance. Some participants detected a reluctance by magistrates to put themselves forward for local leadership roles; one area had resorted to a lottery to select the bench chair. However, in another area there had been several candidates, leading to a ballot.

Magistrates felt that Justices' Clerks and legal advisers now felt more remote from them, although it was recognised that clerks and advisers were often over-worked and that their own morale suffered as a consequence. Many clerks and legal advisers now have to cover wider areas, making them less available to magistrates. One participant suggested that this could have a negative impact on newer magistrates who needed more support. There were particular difficulties in recruiting Welsh-speaking legal advisers in some parts of Wales. Problems arising from inadequate Crown Prosecution Service resources caused magistrates to waste time when hearings had to be adjourned. This was particularly frustrating for magistrates who had taken time off work to sit and could be off-putting for younger magistrates.

Participants also described the impact of court closures and bench mergers on magistrates, who may find themselves allocated to bigger teams covering larger areas. There was a strong view that the concept of “local justice” had largely been lost; magistrates could find themselves sitting in an unfamiliar court, without knowledge of the area where the alleged offence took place. Some magistrates expressed unhappiness about being expected to travel long distances to sit in court, even though the expenses of travel could be claimed; examples were given of round trips of over 150 miles. Larger benches have also had an adverse impact on attendance at bench meetings. On the other hand, it was suggested that bench mergers had positive benefits, as magistrates found themselves sitting with unfamiliar colleagues which encouraged a more professional approach; there may have been a tendency in the past for some local benches to develop “bad habits”. There were concerns that the abolition of Local Justice Areas (LJAs) could force magistrates to sit even further away from home; one participant questioned the need for abolition as there were already provisions allowing cases to be listed outside an LJA, and the boundaries of LJAs could also be adjusted by secondary legislation.

Relationships between magistrates and District Judges (DJs) were generally thought to have improved; the two groups generally work well together and magistrates benefit from DJs giving them training. There was a positive view of mixed panels, where a DJ invites two magistrates to sit with him/her. Having an underlying good relationship with local DJs means that any problems can usually be resolved quickly—although one participant suggested that this was not always the case and some thought there were still occasional problems with the allocation of cases.

As an illustration of how magistrates might feel undervalued, one participant regretted the fact that magistrates who retired did not receive a letter of thanks for their service from the senior judiciary.

2. Magistrates leadership structure

Participants were asked their views on the new leadership structure for the magistracy—that is, the Magistrates’ Leadership Executive. Some felt that the new structure was remote from ordinary magistrates, and that they benefited from better communications under the old National Bench Chairmen’s Forum. However, it was recognised that the intention behind the changes was positive; things were still bedding down and time was needed to allow the new avenues of communication to work.

The importance of bench chairs was emphasised, as they are the visible leaders of Local Justice Areas and are close to magistrates on the ground. There was discussion about the relationship between bench chairs and the regional Judicial Business Groups (JBGs), which have responsibility for ensuring the efficiency of the magistrates’ courts in their circuit. One participant thought that there were difficulties with JBGs taking decisions for all the benches in their circuit; as a magistrate member of his own JBG, he found himself taking decisions about benches he had never sat on or visited. Another participant suggested that it could be difficult for JBGs to accommodate the “widening gulf” between rural and urban benches in their circuit.

3. Recruitment and diversity

Some participants were concerned that there was no funding for a national recruitment campaign to increase awareness of the magistracy and attract applicants for vacancies—a situation described by one magistrate as “embarrassing”; it should not be the responsibility of individual benches to lead on recruitment. Another problem that could be remedied by a national recruitment campaign was that many members of the public had no idea what the role of magistrate entailed. In some areas, there were shortfalls in the number of magistrates; one participant said that her local bench should have 250 magistrates, but following a six year moratorium on recruitment now had a shortfall of 55 and was due to lose more magistrates soon. In these circumstances, it was common for magistrates to sit in panels of two, rather than three. Many magistrates who sit as panel chairs are now approaching retirement; this was also storing up problems for the future.

Participants recognised the barriers facing younger people who wanted to become magistrates. In the past, employers had been more generous in allowing magistrates time off, but this was “long gone”; participants thought that employers now see this as unhelpful, rather than accepting it as a public service (although one magistrate working in the public sector said that he was allowed to take 18 days per year for public service duties). It was accepted that a small business may not have the resources to provide cover for a staff member who takes time off to sit as a magistrate, and that someone trying to build their career may be reluctant to take time away from the workplace. However, public bodies could do more to support the recruitment of magistrates; one participant suggested that organisations such as the NHS should be set recruitment targets.

It was suggested that employers who allow their employees time off to sit as magistrates should be recognised through the Investors in People scheme. One magistrate said that there was an HMCTS working group set up to address this issue, and that a new website was being developed for applications together with promotional material aimed at employers. Another participant described the process allowing magistrates to claim Financial Loss Allowance (for loss of earnings) as “labyrinthine” and said that the claimable amount was very modest.

There was a general view that the magistracy lacks diversity in social background; it was difficult to get a wider range of people to come forward and apply. On the whole, people find out about the role by word of mouth or because they know someone who is a magistrate, which leads to new recruits being “more of the same”. Part of the solution might be to change the retiring room culture, to make a diverse range of people feel more welcome. The application process might also be putting off people from applying.

One participant raised the question of attrition between the application and appointment stages; it was unclear whether there was a bottleneck within the recruitment process and if so, whether this might indicate a bias in favour of certain applicants.

A magistrate from a Black and Minority Ethnic (BAME) background said that he felt that the magistracy did not represent him; this was his motivation for joining—he wanted to make a difference to the lack of diversity that he saw on the bench. Some participants observed that, while their areas had diverse populations, this was not reflected in the membership of the local bench in spite of efforts to overcome barriers. It was suggested that tapping into the professions (eg the medical profession) to increase diversity within the

magistracy would not work, as professionals of this type could not spare their time; going into temples and mosques was more likely to be successful—for example, to encourage applicants from the Somali community. It was also suggested that public bodies such as the NHS which employed a high proportion of BAME staff could do more to drive recruitment.

3. Training and appraisals

Participants thought that the annual budget for training magistrates had been reduced. While induction training was considered good, many participants thought that training was poor and/or that it was insufficient, impacting on morale although this view was not universal. The mentoring system for new magistrates was viewed as very successful. Participants observed that legal advisers are expected to deliver training, although they may not be skilled trainers (even though they know the subject area); this also prevents legal advisers from sitting in court that day. Not all magistrates put themselves forward for training, and employers were often reluctant to release magistrates for training purposes. Training varied between areas (for example, in two adjacent areas one provided IT training while the other did not) and sometimes courses were cancelled. In certain areas, magistrates were expected to travel quite long distances to participate in training, and there did not appear to be flexibility to revise the training venue so that it was convenient for the majority of participants.

There had been a move to standardize training through the new TAAACs and FTAAACs; the new structure also allowed more specialist training to be designed. One participant said that a representative from his local TAAAC attended meetings of the JBG; this was viewed as beneficial as it encouraged the TAAAC to take a more strategic approach.

There was support for the idea of online training, as it provided continuous access, although a view was expressed that face to face training was preferable and it was also noted that training, when combined with bench meetings, could encourage attendance. One participant suggested developing “bite-sized” training, an idea which received support from others. Another thought that time otherwise wasted in retiring rooms could be used to take advantage of online training resources.

Some participants favoured having more ongoing training on wider issues such as prisons, the benefits system, county lines and domestic abuse; this could take the form of short briefings or discussions with the police.

The new appraisal system attracted some criticism. Magistrates are currently appraised by colleagues on the same bench, and some considered it would be more appropriate for an outsider to take on this role. It was suggested that poor performance was not really being tackled and that awaiting the next appraisal to deal with performance issues was not good enough.

Some participants said that the quality of appraisals varied a good deal, although others thought that appraisals were taken seriously and that the system was in principle a good one; for example, by allowing anonymous assessment at Committee level. The appraisal forms were considered by some as too process-centred (“tick box”), with a focus on minimum competence rather than performance improvement; a “continuing professional development” approach was not used. Sometimes appraisals had to be cancelled (for

example, because the magistrate was ill or had another commitment), and if the appraisal was not promptly rescheduled people could “fall through the cracks”. Magistrates also experienced problems with the shared cloud-based storage system on which appraisals are filed.

Although this was not supported by everyone, a suggestion was made that magistrates reaching the mandatory retirement age of 70 should be allowed to undergo an enhanced appraisal process that would allow them to continue sitting; this would be consistent with the fact that judges can sit up to the age of 72.

4. Court closures and court reform

Many participants felt that they had been adversely affected by court closures, but some emphasised that they were thinking of the impact on other court users as much as themselves. The Government’s estimates of travel times were based on “flawed assumptions” that people travel by train. Travel times for users can be “huge”, and witnesses/defendants may have to catch two or three buses to get to court and then struggle to get home afterwards. Similar difficulties affected others, such as court and probation staff. Some participants questioned whether money was actually saved, as trials had to be adjourned and time wasted when witnesses/defendants did not turn up. Others thought there were problems with the rota system, and that more effort should be made to ensure that magistrates sit in their local court as far as possible. It was observed that rota clerks were poorly paid, leading to a high staff turnover—hence an influx of less experience staff who did not necessarily take rota decisions that were logistically sound. On the other hand, there was a view that the computer-based rota was an improvement on the previous, paper-based system.

The reduction in support from court staff was mentioned as a negative factor, as was the postal requisition system (ie, the system that allows defendants to be charged with a criminal offence/summonsed to court by way of a letter); several magistrates considered that this system was responsible for increases in “no shows” for hearings. Difficulties could also arise if HMCTS letters did not state clearly enough where a hearing was taking place.

Concerns were raised about the lack of capacity in the Family Court. The removal of most legal aid for family cases means that more people are self-representing, which requires magistrates to use different skills. Cases are taking “twice as long” because everything has to be explained to litigants who do not know what to expect. A lack of suitable guidance was identified as a problem, as well as the absence of people at the court to help litigants representing themselves (although one participant was aware of a scheme which involves law students giving help to self-represented litigants in family cases).

Participants had different views on using non-traditional buildings/mobile courts. Some thought this was a good idea in principle because it “takes justice to the people”, but considered that care was needed when deciding whether a case was suitable for hearing in this type of setting; one factor was whether separate entrances would be needed for victims and defendants. It was pointed out that some venues may raise security concerns, and there would need to be a compatible IT system. A protocol could help determine which cases were suitable for non-traditional venues; for example, low level offences. There was

also a need to preserve the formality and integrity of the court setting, while making it a less distressing venue for hearing cases; this could be particularly useful for Youth Court cases, also reducing travel time for young defendants.

There were also differing views about video hearings. While these were considered suitable for police officers, expert witnesses and vulnerable witnesses and more generally for first offences, some participants thought that video links did not work well for vulnerable defendants, particularly if unrepresented.

5. Additional roles for the magistracy

Many participants were open to the idea of magistrates taking on additional roles, although noted that they may not know how to go about doing so, or were unclear about what they would be permitted to do. A successful project runs in Northamptonshire, in which magistrates give regular supervision to young people who are subject to youth referral orders; this supervision is arranged away from the court room via the Youth Offending Team. In contrast, a participant from another area had been told that magistrates could not take on this role.

Although some participants favoured having a role in supervising Community Orders (COs), others were less enthusiastic, observing that magistrates “are not social workers” and that there were other professionals with more expertise in issues such as addiction and debt. Not all participants had confidence in community sentences and the varying quality of Community Rehabilitation Companies (CRCs) was noted; in any event, community sentences had to be adequately resourced. There was a complaint about the quality of CRC supervision—for example, supervision by telephone. One participant commented that COs were “not viewed as a punishment” although another participant argued that rehabilitation was more important than punishment. In relation to financial penalties, a suggestion was made that magistrates should be able to issue unpaid work orders to offenders who default.

On the question of whether magistrates’ sentencing powers should be extended to 12 months for a single offence, there was no clear agreement; while it was recognised that pressures on the Crown Court would be relieved, the level of appeals against sentence might also increase. Some participants thought that magistrates would need more training were they to assume this additional power—although it was noted that magistrates are expected to follow sentencing guidelines when determining sentence levels.

6. A national strategy for the magistracy

It was suggested that the fall of the Prisons and Courts Bill at the last election had had negative effects on the magistracy. The Magistrates’ Leadership Executive was working to develop a strategy for the magistracy, although it was “early days” for this initiative. There was general support for the idea of the Ministry of Justice developing a national strategy for the magistracy, but it was observed that the purpose of the strategy needed to be clear; for example, what would be its aim—would it focus primarily on recruitment, or have a wider purpose? One participant thought that any national strategy should be focused on people rather than buildings, and another thought that the magistracy required investment and needed reassurance from Government that it was not being abandoned. It was generally recognised that a strategy would be of limited value unless it was properly resourced, as well as being regularly reviewed.

Formal minutes

Wednesday 12 June 2019

Members present:

Robert Neill, in the Chair

Bambos Charalambous	Marie Rimmer
David Hanson	Ellie Reeves
Victoria Prentis	Andy Slaughter

Draft Report (*Role of the magistracy: follow-up*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 127 read and agreed to.

Resolved, That the Report be the Eighteenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Tuesday 18 June at 9.30am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Tuesday 27 November 2018

John Bache JP, Chair, Magistrates Association, **Mrs Jo King JP**, Co-Chair, Magistrates' Engagement Group, **Duncan Webster JP**, National Leadership Magistrate [Q1–58](#)

Phil Bowen, Director, Centre for Justice Innovation, **Penelope Gibbs**, Director, Transform Justice [Q59–75](#)

Tuesday 12 February 2019

Lady Justice Macur, Senior Presiding Judge, **Senior District Judge, Emma Arbuthnot**, Chief Magistrate, **Lady Justice Thirlwall**, Deputy Senior Presiding Judge [Q76–139](#)

Lucy Frazer QC MP, Parliamentary Under Secretary of State, Ministry of Justice [Q140–196](#)

Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

MAG numbers are generated by the evidence processing system and so may not be complete.

- 1 Centre for Justice Innovation ([MAG0006](#))
- 2 Dominic Goble JP ([MAG0003](#))
- 3 Ian Clarkson JP ([MAG0004](#))
- 4 Sue Furnival JP ([MAG0005](#))
- 5 The Magistrates Association ([MAG0001](#))
- 6 Transform Justice ([MAG0002](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Disclosure of youth criminal records	HC 416 (Cm 9559)
Second Report	Draft Sentencing Council guidelines on intimidatory offences and domestic abuse	HC 417
Third Report	Pre-legislative scrutiny: draft personal injury discount rate clause	HC 374 (Cm 9567)
Fourth Report	Draft Sentencing Council guidelines on manslaughter	HC 658
Fifth Report	HM Inspectorate of Prisons report on HMP Liverpool	HC 751 (HC 967)
Sixth Report	Draft Sentencing guideline on terrorism	HC 746
Seventh Report	Small claims limit for personal injury	HC 659 (Cm 9649)
Eighth Report	Young adults in the criminal justice system	HC 419 (HC 1530)
Ninth Report	Transforming Rehabilitation	HC 482 (HC 2309)
Tenth Report	Draft Sentencing Council guideline on child cruelty offences	HC 892
Eleventh Report	Disclosure of evidence in criminal cases	HC 859 (Cm 9744)
Twelfth Report	Criminal Legal Aid	HC 1069 (HC 1858)
Thirteenth Report	Draft Sentencing Council guidelines on arson and criminal damage and public order offences	HC 1579
Fourteenth Report	Draft Sentencing Council General Guideline for sentencing offences for which there is no specific guideline	HC 2015
Fifteenth Report	Appointment of HM Chief Inspector of Probation	HC 2015
Sixteenth report	Prison population 2022: planning for the future	HC 483 (HC 2308)
Seventeenth Report	Bailiffs: Enforcement of debt	HC 1836
First Special Report	The implications of Brexit for the Crown Dependencies: Government Response to the Committee's Tenth Report of Session 2016–17	HC 423

Second Special Report	Government Responses to the Committee's Reports of Session 2016–17 on (a) Prison reform: governor empowerment and prison performance (b) Prison reform: Part 1 of the Prisons and Courts Bill	HC 491
Third Special Report	The implications of Brexit for the justice system: Government Response to the Committee's Ninth Report of Session 2016–17	HC 651
Fourth Special Report	HM Inspectorate of Prisons report on HMP Liverpool: Government Response to the Committee's Fifth Report	HC 967
Fifth Special Report	Young adults in the criminal justice system: Government Response to the Committee's Eighth Report of Session 2017–19	HC 1530
Sixth Special Report	Criminal Legal Aid: Government Response to the Justice Committee's Twelfth Report of Session 2017–19	HC 1858
Seventh Special Report	Prison Population 2022: Planning for the future: Government Response to the Committee's Sixteenth Report of 2017–19	HC 2308
Eighth Special Report	Transforming Rehabilitation: Government Response to the Committee's Ninth Report of Session 2017–19	HC 2309