

# Lord Chancellor outlines his plans to recover the justice system from COVID-19

Thank you very much for those kind words and let me say how grateful I am to the Law Society for hosting this event today. I want to echo the spirit of collaboration touched upon by the President there, which I am convinced will be crucial to the recovery of our justice system. I hope that solicitors and indeed legal professionals of all disciplines know that, as their Lord Chancellor, my door is always open to them.

It is a particular pleasure to be in this room where many years ago I saw my own brother admitted as a solicitor and only a stone's throw from where I was admitted to the Bar – so I feel very at home here.

In so many ways, the last fifteen months has been a Herculean effort.

Some heroic feats are well known and have been rightly lauded – the NHS staff who have cared for the sick and delivered the hugely successful roll out of the vaccination programme. The police who continued to keep us safe even when the virus was at its very peak. And the teachers who found new and innovative ways to inspire our children despite not all being able to be in classrooms.

Thanks to their collective efforts, society is now cautiously beginning to open up and we have all started to take our first steps back towards a semblance of normality. This is great news and it's something that could only be achieved in partnership with the British people. It is not hyperbolic to say that we have overcome the greatest peacetime challenge in our history. It's a feat that should make every person in our country feel proud and hopeful for the future.

But as we take these first steps back to normality, let's also take the time to consider those areas of public life – unheralded, unrecognised and unseen by most people – where the achievements have been no less monumental. I am talking about the hidden heroes who will continue working to combat the after-effects of the pandemic even after the very last person has been vaccinated, so that our society can truly recover from the virus. Those who have worked so hard in our courts and our tribunals are a perfect example.

Those who commit criminal offences did not down tools because of COVID-19. Disputes between individuals, businesses, and family members continued to arise. Vulnerable children and domestic abuse victims still needed to be safeguarded. And remand orders had to be renewed so that dangerous suspects were not roaming our streets.

It is for every one of those reasons that our justice system could not stand still.

Jurisdictions across the world faced similar challenges. In countries with legal systems similar to ours where COVID-19 was contained relatively quickly, like New Zealand and Hong Kong, the uncertainty meant that jury trials had to be put on hold. In the Republic of Ireland, where the experience of the virus has been more similar to our own, jury trials were re-suspended earlier this year and only resumed recently.

As Lord Chancellor and someone who has spent their entire career working in the justice system, frankly I refuse to accept that any injustice should go unchecked at any time. Every professional instinct I have and my twenty-five and more years of experience as a criminal barrister, a Recorder and both an MP and a minister, told me that I had to do everything possible to keep justice going in our country. That's why the Lord Chief Justice and I took the early decision to do everything in our power to keep justice moving throughout the pandemic.

Safety was, of course, our primary concern – protecting the people passing through our court buildings, whether they were seeking justice or justice was seeking them. In line with public health advice, we left open only those hearing rooms with enough space to accommodate social distancing measures, while others were quickly fitted with video and audio technology to enable remote proceedings to take place.

This meant that, throughout the lockdown, hearings of many different types continued to take place and justice in its myriad forms continued to be done. But it was not without cost. Some cases were unavoidably delayed, and many users of our courts and tribunals found that justice was not as quickly forthcoming as they hoped and expected.

We needed to act – to mitigate the impact of the pandemic on justice outcomes, while at the same time doing everything within our power to protect those coming through our courts and tribunals.

We made available a quarter of a billion pounds not only to keep the wheels of justice turning, but to propel them forward at a pace that would help tackle the number of outstanding cases, particularly in the criminal courts.

The money was spent on people, equipment and buildings – 1,600 extra court staff with more on the way; 60 new 'Nightingale Court' rooms in hotels, theatres and even football stadiums to build capacity as quickly and safely as possible; and alterations to buildings to make sure we could safely accommodate more people and hold larger trials.

It also funded the fastest and most ambitious roll out of technology that Her Majesty's Courts and Tribunals Service has ever seen. Just as many workplaces took their meetings online, we made sure 3,200 hearing rooms became "virtual" – so that we could facilitate more remote hearings and keep people safe. In fact, a record number – up to 20,000 hearings – have been heard using audio and video technology each week. And that was from a standing start when the pandemic began.

Among comparable countries in the western world like France, Canada, and the

USA, we were the first jurisdiction to resume jury trials – and did so within the first few months of the pandemic. Each of our jury rooms now comes equipped with hand-sanitising facilities and, where necessary, plexiglass dividers – to ensure anyone performing this sacred civic duty is as safe as they possibly can be.

The action we took then means cases are being dealt with now at around pre-pandemic levels almost across the board in the courts and tribunals estate.

These are truly remarkable achievements, almost unthinkable fifteen months or so ago when social distancing became necessary, and testament to the enormous efforts of court and tribunal staff, the judiciary, and many others working across the justice system.

They really are hidden heroes and they do not get nearly as much credit as they deserve for all they do to keep us safe and our society fair. I would like to put on record my personal thanks to them, which I know will be echoed not just across politics but by the public as well.

Another essential group of workers are legal professionals working across all our jurisdictions and they have been on the front line throughout, showing resolve in the face of these extremely challenging times.

We knew that the pandemic would lead to a drop in legal aid cases, which are fundamental to the survival of some legal firms and we took unprecedented steps to help them to stay afloat.

We made it easier for criminal lawyers to apply for hardship payments, sped up payments for civil cases, and paused repayments for outstanding debts owed to the Legal Aid Agency.

We kept in close contact with providers throughout the pandemic to monitor the sustainability of the provider base and to make sure they were aware of existing avenues of financial help. The ability to apply for early payment for work already done on a case, among other avenues of support, has helped them to manage cashflow in the short term, and to avoid going under in the longer term.

This was on top of the £51 million uplift we gave criminal lawyers to ensure that their pay reflects the work that they do behind the scenes. And legal firms have, of course, also had access to a range of additional help from the Treasury's COVID support schemes – including Self-Employed Income support, the Coronavirus Job Retention Scheme, the Coronavirus Business Interruption Loan Scheme, and the Bounce Back Loan Scheme.

I am deeply proud to champion the legal sector around the Cabinet table. I am extremely pleased that these measures have provided some financial stability throughout the pandemic and I have been grateful to the Chancellor for his continued understanding of the unique pressures that face our sector.

But I am even more grateful to legal professionals for the fortitude they have shown and the dedication to justice that they have clearly demonstrated. The system could not work without them. As we now emerge from the acute phase

of the pandemic and the economic situation evolves, I will continue to be the legal sector's advocate from right inside the heart of government.

One group which will always be a priority for me is those who have been victims of crime. Throughout the pandemic they have continued to be at the forefront of my work as Lord Chancellor.

It was vital that we continued to protect them and in so many instances we did. Between April and December 2020 over 30,000 court orders were issued – protecting against female genital mutilation, forced marriage, and domestic abuse.

We must continue to recognise that for any victim the criminal justice system will be difficult to navigate, and for many it will compound the trauma visited upon them by the crime that was done to them.

Every trial held up because of COVID-19 leaves a victim anxious, sometimes terrified, about what the outcome will be. As a criminal barrister for more than twenty-five years, I know just how unpleasant that can be. For some the strain is simply too much and they will withdraw from the criminal justice process early, which can lead to cases collapsing, meaning that perpetrators go unpunished.

Victims support services have been stretched like never before during this pandemic and I have been adamant all along that no victim should be left to suffer alone.

Studies consistently show that victims are less likely to drop out when they have the right specialist support. That's why, in addition to the more than £30 million of emergency funding that we put in place to keep vital services running during the pandemic, we have allocated an extra £51 million this year for services that support rape and domestic abuse victims.

The revised Victims' Code also came into force in April, setting out and boosting the support victims should receive from the police interview room to the court room and indeed everything in between. But we know that we must go further to protect and support victims, and we will soon consult on a Victims' Law to put that Code on a statutory footing.

We will soon publish the end-to-end Rape Review report, which includes an ambitious plan of action to address the way the Criminal Justice System responds to this sickening crime. It will look broadly at how we can improve the support we give to victims of rape and enable the system to do a better job of putting rapists where they belong – which is behind bars.

We also want to build on the historic Domestic Abuse Act that received Royal Assent in April. So, later this year we will publish a new strategy for tackling Violence Against Women and Girls, so that we can get a grip on those men who would seek to use their power and privilege to abuse women and girls in our country.

Ultimately my goal is three-fold: to better support victims, to make sure there are fewer of them, and to build confidence in the ability of the

justice system to punish those who would commit crimes against them.

All this work goes to show that – not only have we kept the engine of the justice system oiled and running during the pandemic – we have taken bold leaps to improve the experience of those who use and work in it.

We have made tangible progress, which is most evident in the amount of work the courts and tribunals estate is getting through – operating at around pre-pandemic levels, as I mentioned earlier. But there remains more to do, and it is important that we are frank about the scale of the challenges that remain. The number of cases waiting to be heard in the criminal courts right now is at historically high levels.

That cannot – and will not – be allowed to continue.

I am determined to enable the Crown Courts to hear cases much quicker once they are ready for listing, so that victims do not spend a second longer in the system than necessary; and so that suspects and defendants, for whom the concept of innocent until proven guilty must never be diluted, get resolutions to their cases as quickly as possible.

I am quite frankly prepared to do everything within my power as Lord Chancellor to make that happen, as I have demonstrated by the actions I have taken to date – creating more hearing rooms, making courts COVID secure, and hiring extra staff.

In addition to the work already underway to create a so-called Super Courtroom in Manchester, I have given permission for a second one to open at Loughborough. This will help us to get through more complex cases involving several and a number of defendants. It is our intention for the court to be up and running by September and it will enable the system to hear more cases involving gang-related crime and sex-trafficking for example.

The Lord Chief Justice and I recently committed, for the next year at least, that our crown courts will be authorised to work at full throttle, to their maximum capacity. What this means in effect is that we have removed the usual restrictions on the maximum sitting days in the crown court, so that judges are free to unleash the full potential of the courts system and they can start to work through the high numbers of cases waiting to be heard.

Whatever the crime, this will mean quicker justice for victims and; as social distancing restrictions continue to ease, we fully expect the justice system to be firing on all cylinders once again very soon.

COVID-19 has changed our lives in ways we would have thought unthinkable at the beginning of 2020. In many ways it has given us the opportunity to reflect on the things we took for granted in the past – be that hugging friends or family, the freedom to travel, or an impromptu coffee with a colleague.

But there is now light at the end of the tunnel. The amazing work to roll out the vaccine has meant that we are beginning to turn that corner, but as we do so we must recognise that where we're going now is different from where we

thought we were heading before COVID-19.

The pandemic has changed our society forever. In our courts and tribunals it has cemented the need for remote participation in hearings to be available and, as we move forward, we want the effective use of audio and video technologies to remain an integral part of our justice system.

This can increase the capacity of the courts, make the process less intimidating for vulnerable people, it can reduce time spent travelling to a hearing, and improve the transparency of our justice system. This digitisation of the court and tribunal system was a process that had already begun under our reform programme, but which has been greatly accelerated by the pandemic.

Extending live links in criminal proceedings and ensuring there is a sound infrastructure for remote participation across all jurisdictions will assist with the effort to recover the courts, to maximise appropriate use of remote working and to deliver a service that is more accessible for everybody.

Our Police, Crime, Sentencing and Courts Bill presents an opportunity to put these changes on a permanent legislative footing – so that the press and public can attend cases that are taking place remotely via video and audio technology. This builds on the temporary measures in the Coronavirus Act that have worked well, ensuring the principle of open justice – that justice must be done and must be seen to be done – is maintained. This will also act as a launching pad for us to make even better use of technology as it continues to evolve.

These provisions are about recognising that new technology has an enduring role to play in our courts and tribunals. Judges should, of course, always have the choice and the flexibility in how they use that technology, where appropriate. So, changes will need to be carefully considered and discussed with the Lord Chief Justice and the Rule Committees.

But it speaks to a bolder, more ambitious and frankly more modern justice system that I think it is possible to create. As someone who has dedicated my life to the law, I want that better future for the system to be a legacy for all those who use it.

And that should include looking at new and different ways of resolving disputes. I remain very strongly of the opinion that the courts should be used as a last resort – something that is ever more important when court space is limited.

At the height of COVID we invested £5.4 million of emergency funding in not-for-profit providers of specialist legal advice. This funding was distributed to 72 organisations across England and Wales, helping them to continue providing vital support on thousands of legal issues throughout the pandemic. The money has gone a long way to making sure that people most in need of legal help – with issues around housing, debt, and employment – did not see their situations spiral out of control.

As we move ahead, fundamentally what I want to do is to re-define the nature of dispute resolution in our country. I want parties to look beyond litigation at the faster and simpler alternatives that exist, such as mediation and conciliation for example.

The lockdown has put real strain on something that I deem fundamental to the fabric of society – families. Separation and divorce are sadly inevitable in some cases, but discord and animosity need not be.

With the support of trained mediators, families can stay in control of the decisions that impact child issues – avoiding an adversarial locking of horns in the family courts. I want this to be available for those who wish to keep the peace during a separation.

That's why I recently introduced the Family Mediation Voucher scheme, which will see £1 million given to support families pursuing mediation, so they can safely reach harmonious solutions.

Looking much more broadly, I think for far too long the so-called "alternative" approaches like these have been viewed as some sort of add-on or diversion for people seeking to resolve a dispute. I want them to become the mainstream, so that we can embrace radical new ways to solve legal conflicts throughout our society, from families to businesses and beyond.

So, let's stop viewing them as alternatives and instead look at them as integral to the justice system of tomorrow.

Now, I take the greatest pride in the progress we have made in tackling the impact of this unprecedented global health crisis on our justice system. We kept people safe through a time of huge risk and uncertainty, but all the while we kept the court and tribunal system moving for those who need it most.

I'd like to reiterate my thanks to the enormous efforts of court and tribunal staff, the judiciary, legal professionals and many others across the system to ensure justice continued to be done throughout the pandemic – it could not have been done without their hard work and dedication.

As we now begin to move beyond it, I want victims and all those who use the justice system to know that I am personally committed to getting justice firing on all cylinders; and this government will carry on making the big decisions, including potentially looking at the numbers of hours courts can sit as a time-restricted measure to recover from the pandemic; as well as giving the system all the support it needs to start moving at pace once again.

But we will also do everything possible to learn the lessons of the last fifteen months and to rebuild a better justice system – to see the time ahead not just as a recovery, but as an opportunity to revitalise justice and to re-examine how it operates in the modern context.

This was a process that was already under way before the pandemic, but COVID-19 has been a catalyst for change. It's worth remembering that one of

the great strengths of our justice system has always been its ability to adapt to meet the needs of the people in our country.

In the time ahead, court and tribunal users will increasingly expect to access services in the ways they choose – in ways that make sense for their lives and their circumstances. So, we need to take a fresh look at how justice works:

...for the working parent, juggling their busy job with childcare but who still needs to resolve a dispute with their former partner...

...for the business owner who finds travelling to a hearing takes more time, thought, and effort because of a disability, caring responsibility, or lack of access to public transport...

...for the legal professional who was awake until the early hours nailing a brief so that they could make the right and the best case for their client in court...

... at how we can improve the experience of all these users by building on what we've learned over the last fifteen months: about different ways of doing things and how new technology, as well as radical new methods could improve the justice system of tomorrow.

What I want is to create a system that is more dynamic and more efficient for all those who use it – so that we can open it up to more people, give everyone a better chance to seek justice and, in the process, build back a fairer country. Thank you.