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Impact of the pandemic on the CJS

As Police and Crime Commissioner for the West Midlands, I welcome the findings of the report into the impact of the pandemic on the criminal justice system but the risks and issues highlighted sadly come of little surprise. I am particularly concerned that cases involving multiple defendants (i.e. those relating to serious and organised crime, and hence some of the highest harm offences) are suffering the longest delays.

In the West Midlands we have worked tirelessly and collaboratively with our criminal justice partners over the last 12 months to respond as quickly and effectively as possible to the challenges Covid-19 has brought to all our agencies but there is no doubt that a sustainable long term recovery and rebuild cannot be achieved without proper government support, reform and investment.

Under civic leadership from PCCs, the West Midlands region was able to come together in March and immediately respond to the unfolding pressures on the criminal justice system. Despite a number of local successes, as the report highlights, the backlogs in the courts remains the significant concern. This is not just a local or regional issue and is reflective of the issues across England and Wales and as such requires a whole system approach for reform. Local innovation and progress has been significantly stifled by a lack of devolved power from central government to local and regional leaders. A one size fits all model that is not flexible to local needs is not practical, nor effective. Case-mixes vary from policing area to policing area, and hence from region to region. PCCs and other criminal justice partners have consistently offered to work with HMCTS locally and regionally to be creative and innovative in solving these substantial challenges together but the retained central control has curtailed these efforts.

As a region we are working hard with partners to help fund and deliver support to victims and witnesses, some of whom will undoubtedly be affected by the lengthy backlogs in Crown and Magistrates' courts. The report suggests that it is likely that some victims will become unwilling to support prosecutions because of the delays but we are already seeing this happen. We are already experiencing a 3% rise in witness attrition in the West Midlands and without an adequate whole system response to support the backlog of cases being cleared, this will only increase. It is unacceptable that some cases are being listed into 2022 and we are doing all we can to ensure appropriate support is available.

Utilising technology to achieve good justice outcomes is imperative to a successful rebuild. We have seen first-hand the difference technology can make in ensuring remand hearings can be held remotely and sustained funding from Government is key to ensuring these technological solutions remain viable long term.

As a system we need to work together to better utilise existing mechanisms and explore new and innovative ways to deliver justice. We are working alongside the National Probation Service to recognise the gaps in approved courses for individuals offered conditional cautions and as result are investing in our use of Out of Court Disposals. This provides avenues for police and courts to help low level offenders rehabilitate, help prevent long term impacts on victim and offender, and where appropriate will avoid people going through the court system.

Without a whole system approach we will see a ripple effect of impact as the issues and responses are passed on from agency to agency. The lack of ability to implement local decision making and locally tailored solutions is affecting our response to the ongoing challenges, and this is due to the centralised model of delivery. I would strongly advocate for a rebalancing of power to devolve power and decision making to PCCs at a local level. A shift towards a more localised criminal justice system with powers to allow PCCs to convene criminal justice partners would mean stronger accountability and a power to work with partners across the whole of the West Midlands to transform a range of support services aimed at reducing crime, preventing reoffending and improving overall wellbeing. The uplift of 20,000 police officers by 31 March 2023 will undoubtedly increase the pressure on policing to deliver more prosecutions. Without significant investment across the criminal justice system, to increase capacity across all agencies but particularly the court service, the potential for the backlogs to increase, as officer numbers increase, remains a significant risk.

The Ministry of Justice need to ensure that all criminal justice partner agencies are consulted with when considering long term solutions. Recognition of the impact changes in the delivery of one service can have on the delivery of another is fundamental. There needs to be a whole system approach to transforming the criminal justice system in the wake of Covid-19 and early communication, devolved powers and appropriate funding will all be key.