

Impact of the pandemic on the Criminal Justice System – Progress report

Response from Simon Foster, West Midlands Police and Crime Commissioner

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. The issues and risks highlighted, are sadly of little surprise.

The Covid-19 pandemic, in addition to the public health crisis, propelled a simultaneous social, economic, mental health and employment crisis, particularly amongst young people. Vulnerable people, many of whom are in routine contact with the Criminal Justice System (“CJS”) and other essential preventative public services, went without the support they require. The consequences of the pandemic exacerbated the deliberate harm caused over the past decade by austerity to our essential preventative public services and CJS, which adversely affected the ability of criminal justice partners to manage their caseloads and support victims.

This is acknowledged in the report at paragraph 8.3:

“We have commented previously that the system was in a parlous state before Covid-19, and that shock has made it worse.”

Policing has become more challenging and difficult because our recklessly, structurally under-funded, weakened essential preventative public services and criminal justice system have not been able to work together as effectively and efficiently as possible, to prevent crime and harm. That has been a big mistake, counter-productive and a false economy. Our under-funded police service has been left to pick up the pieces. The PEEL inspection 2021/2022 shows West Midlands Police is an efficient police force, yet, as the Inspector’s commentary notes, West Midlands Police lacks the capacity and resources to cope with the demand it faces. We have all been left paying the price, with less justice, safety and security.

West Midlands Police are tackling higher levels of serious crime, such as firearms and knife crime offences, than that of other force areas. Some forms of violence have been rising in the West Midlands for several years, driven in no small part by the consequences of entirely avoidable deprivation, inequality and poverty. Local authorities in more deprived, urban areas, have seen much greater cuts to funding than those serving more affluent areas. It is no surprise then that forces like West Midlands Police were faced with a more challenging environment than forces in less disadvantaged areas.

The increased levels of violent crime within the West Midlands will add to the pressures already being seen within the wider Criminal Justice System as cases are progressed. In the West Midlands, we have worked collaboratively and tirelessly with our criminal justice partners, over the last 12 months, to respond as quickly and effectively as possible to the challenges caused by the chronic and structural lack of investment by central government over the past decade and the exacerbating effects that Covid-19 has had on all our agencies. However, there is no doubt that a sustainable long-term recovery and rebuild cannot be achieved without adequate government investment, support and reform.

Partners recognise the continued challenges presented by the backlog in outstanding cases in the Crown Courts. In the Crown Court, the local trial backlog reached a peak of 2,800 in April 2021. The

backlog has been slowly decreasing, with more recent data showing a trial backlog of around 2,300. However, the ability to manage the backlog locally is affected by the funding and resources available to the Criminal Justice System.

The recent strikes by members of the Criminal Bar over pay and conditions, as a consequence of the Government's short-sighted failure to honour the recommendations of the Criminal Legal Aid Review to increase their fees by at least 15% immediately, led to the vice chair of the Criminal Bar Association stating that the decline in incomes "poses the most serious threat to the British legal system in decades¹"

As a result of chronic and structural underfunding, victims, witnesses and accused are facing intolerable delays to have their cases heard, all of which delays justice, denies justice and undermines trust and confidence in the CJS.

That is why, alongside key partners, the PCC has led and continues to lead transformative efforts to tackle the causes of crime and stem the flow into the courts system through effective prevention and diversion strategies. One example of this will be the new Problem-Solving Court for female offenders. This court will offer multifaceted support for female offenders in persistent contact with the CJS. This court has the potential to be transformational in the way we go about tackling shared social challenges. In addition to reducing delays within the CJS, it will offer an enhanced, holistic package of rehabilitation, together with a reduction in re-offending and the consequential cutting of crime.

The lack of ability to implement local decision making and locally tailored solutions is affecting our response to the ongoing challenges. This is due to the centralised model of delivery. I would strongly advocate for a rebalancing of power so as to devolve power and decision making to PCCs at a local level.

One of the key vehicles at our disposal for doing this is the Trailblazer Devolution Deal. Manchester Combined Authority and West Midlands Combined Authority have been invited, by the Department for Levelling Up Housing and Communities (DLUHC), to engage with them on a TDD process. They will be given the opportunity to negotiate with central government on achieving tailored, devolved powers and devolved funding on a basis of what will be most beneficial for their given geographies and systems. As part of this process both combined authorities will need to articulate how their TDD proposals will help to achieve the 12 Levelling Up missions, set out in the government's Levelling Up White Paper.

In the West Midlands we have undertaken an extensive consultation process with criminal justice system partners from across the West Midlands, so as to engage in an open and thorough process. Arising from this process, it is clear there is a need for enhanced requirements around local leadership and integration, across the spectrum of the criminal justice system. We have therefore devised a series of proposals which we will be putting to central government, with a view to them being piloted here in the West Midlands.

It is our belief that these enhanced, tailored requirements will lead to a better integrated criminal justice system. One where there are greater levels of collective understanding and responsibility. A criminal justice system in which victims, witnesses and offenders are able to obtain justice more effectively and efficiently.

¹ [Criminal barristers strike 2022: Disruption across UK as staff take action over legal aid funding | The Independent](#)

However, at present it is not clear that there is either the commitment or the will on the part of either the Home Office or the Ministry of Justice to implement and support our proposals, so as to ensure that the benefits and outcomes can be realised for the people and communities of the West Midlands.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Simon Foster', with a large, stylized initial 'S'.

Simon Foster

West Midlands Police and Crime Commissioner