

**To: Kent and Medway Police and Crime Panel**

**Subject: Criminal Justice System - Update**

**Date: 16 July 2024**

**Introduction:**

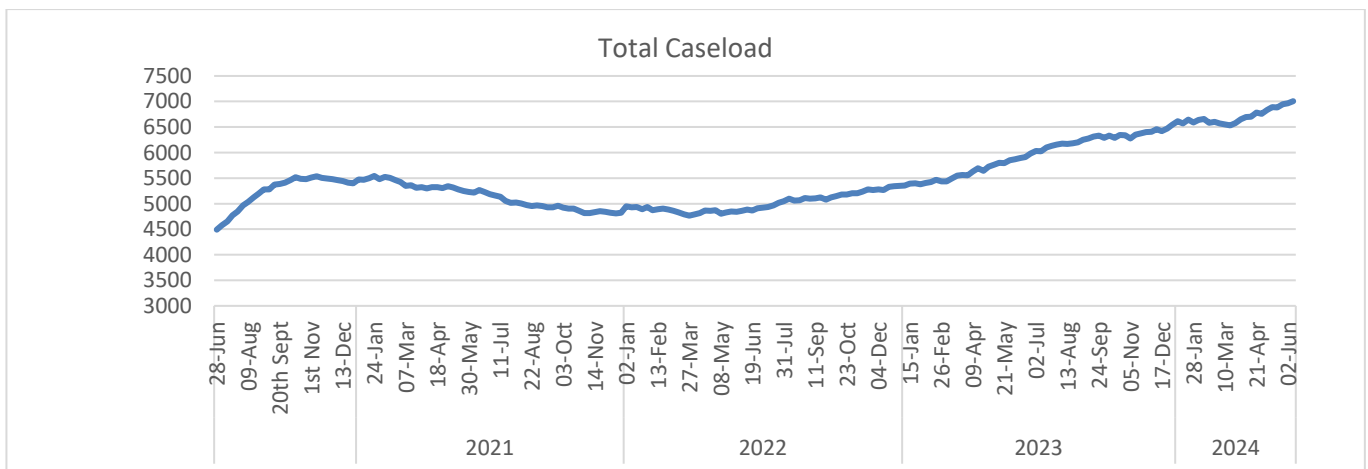
1. For reasons out of local control, the outstanding court caseload continues to increase and is likely to do so for some time, particularly in Crown Court.
2. The PCC has been and remains in regular contact with appropriate Ministers and with the Ministry of Justice (MoJ) who recognise Kent’s situation and confirm it is a top priority. However, this has not yet resulted in a reduction in the backlog.
3. A lack of staff is very much at the heart of the problem along with the criminal justice (CJ) systems inability to flex resource where it is most needed.
4. This paper provides an update on:
  - latest numbers, highlighting the scale of the backlog and a comparison with the national position;
  - reasons why the court backlog is so great;
  - potential impact on victims, witnesses, and CJ staff; and
  - action taken to reduce numbers.

**Latest numbers:**

5. The following table shows the percentage increase in outstanding caseload between February 2020 (pre-pandemic benchmark) and 23 June 2024 for Kent and nationally.

	<b>Total caseload</b>	<b>Crown Court</b>	<b>Magistrates Court</b>
<b>Kent</b>	<b>+ 164%</b>	<b>+ 193%</b>	<b>+ 137%</b>
<b>National</b>	<b>+ 61%</b>	<b>+ 84%</b>	<b>+ 44%</b>

6. The graph below shows how the total caseload in Kent has been increasing since 2020.



7. At 61% above February 2020, nationally there is clearly a serious problem and with numbers still rising there is no sign of a recovery anytime soon. Reasons for this increase include the impact of the pandemic, the Bar strike in 2022 and ongoing staff shortages, particularly in terms of judiciary and barristers.

8. Whilst of course these play a part in Kent's increase, at 164% there are other factors also at play as outlined below.

### **Reasons for the increase:**

9. In addition to national issues, the scale of Kent's increase is primarily down to three factors:
- Record levels of work entering the system.
  - Insufficient physical court capacity.
  - Shortage of key staff in HM Courts & Tribunals Service (HMCTS), the Crown Prosecution Service (CPS) and the Probation Service.

#### Work entering the system

10. Kent Police now has more officers than at any other time in its history which is resulting in more arrests and charges. The number of charges has been rising steadily particularly over the last 3 years, however with most new recruits now qualified and actively deployed, levels are reaching a new norm which is around 50% higher than pre-pandemic. Despite frequent warnings dating back to pre-pandemic, the rest of the CJ system has not kept pace.
11. Members may also have seen recent press coverage about a request for police forces to delay arresting people in 'non-priority' cases due to prison overcrowding issues. The Chief Constable has made it very clear that catching criminals is a core component of policing and that when arrests need to be made in Kent, they will be. He has advised officers that they should not be put off making an arrest because of issues upstream in the CJ system. I wholeheartedly support this position as the job of the police is to prevent and detect crime in local communities, whatever national issues there may be.

#### Physical court capacity

12. *Crown Court:* While currently able to use all five courtrooms, Canterbury's caseload remains stable at around double its pre-pandemic level. Current capacity does not allow for any recovery.
13. The position is vastly different in Maidstone where numbers continue to rise steadily. HMCTS accepts that eight courtrooms is insufficient to meet demand and as such, a Business Case has been submitted to build a further two jury courtrooms. However, there is no guarantee the request will be accepted and if it is, it will be some years before they become operational. Numbers are currently three times pre-pandemic levels and continuing to grow.
14. The Maidstone Nightingale Court shut in March as it frequently remained unused due to a lack of judiciary and other court staff.
15. As Crown Court numbers increase so too does the number of Custody Time Limit cases that must be heard, resulting in cancellations of trial/sentencing work and lengthening delays.
16. *Magistrate Court:* While at county level there is sufficient capacity, the problem is that the capacity is not aligned to demand.
17. As the busiest court, Medway only has three secure docks and five cells which is significantly short of what is required, yet there is unused capacity in courts such as Sevenoaks and Margate. Medway's ability to hear crime cases is further hindered by the closure of Gun Wharf because of reinforced autoclaved aerated concrete (RAAC) and the need to list extra family and civil work there.

#### Staff shortages

18. There is a national shortage of Judges and although more are being recruited, this just exacerbates the shortage in barristers as they all come from the same pool.
19. Judges have a significant input into where they work, and so the system is reliant on enough choosing to work in Kent. Unfortunately, Kent has been short over the last two years with Crown Court utilisation averaging around 75%. This year is much better as HMCTS have secured more Recorders to backfill for a shortage in Judges and so utilisation is currently over 95% (yet caseload numbers continue to rise). This utilisation is excellent, and demonstrates further that there simply is not sufficient capacity within Kent to deal with our demand.

20. In Magistrates Courts, Kent continues to experience difficulties in recruiting and retaining key staff, with shortages of Legal Advisors, Lawyers, and the Probation Service limiting the number of courts that can be run.
21. Many Kent based staff / recruits opt to work in London to receive the London Allowance. The PCC has therefore recommended that a Southeast Allowance be paid in order to break the constant cycle of failed recruitment campaigns and staff shortages. However, with no funding available this recommendation has not been progressed by those in authority.

### **Impact on victims and staff:**

22. The PCC has met with and receives regular correspondence from victims concerning the impact of trial delays, which usually includes multiple date cancellations. Many are truly heartbreaking.
23. Many victims feel unable to move on with their lives while their court case drags on. There is anger and frustration at repeated delays, a feeling of being let down, and that justice is not being served. For many, their health and wellbeing is adversely affected and for the most vulnerable this can be extremely serious and on occasions life changing.
24. The delays are having a direct impact on PCC commissioned services for victims and witnesses of crime in terms of demand and cost. They are having to provide support for longer as cases work their way through the system and are seeing people withdraw completely from the process. The PCC has sought feedback on why victims and witnesses withdraw - the reasons vary depending on the circumstances and individual concerned. However, those directly related to the CJ system are; the length of wait including the number of adjournments leading to a lack of trust; being re-traumatised; fear of the process; the expense, including impact on work and childcare; and intimidation from the perpetrator and their associates.
25. The Kent Police Victim and Witness Care Unit (VWCU) also supports victims and witnesses by ensuring they are kept updated throughout the court process. However, as a result of trial delays, their caseload has increased with contact having to be maintained for much longer; this has necessitated an increase in resourcing. The VWCU also reports increased levels of anger from victims and that keeping them on board with a prosecution is becoming more difficult as they grow tired of waiting and want to move on with their lives, often leaving defendants to walk free.

### **Action taken:**

26. Despite the issues, it is important to recognise and acknowledge the work of local teams to continue delivering the most efficient and effective system possible under the most extreme circumstances. Without the excellent relationships built across all agencies which has seen them pull together as one under the control of the Kent Criminal Justice Board (KCJB), Kent would be in a far worse position than it is.
27. The issue with Maidstone Crown Court capacity has been known for years and Kent has been sending cases with a DA postcode to Woolwich since 2016. HMCTS is looking at other work that can be sent out of area and non-victim cases continue to be sent to Dorset.
28. A number of Legal Advisor trainees are now qualified and will start to take courts in the coming months. It is hoped that with work entering the system seemingly levelling out, Kent will start to see a reduction in magistrates work in the early autumn.
29. The PCC continues to engage with ministers and the MoJ / HMCTS setting out the case that something needs to be done as the caseload volume increases and the gap between Kent and the national average widens.

### **Recommendation:**

30. The Kent and Medway Police and Crime Panel is asked to note this report and agree to a further update at their June 2025 meeting.