

David Lammy MP
Deputy Prime Minister and Lord Chancellor
Ministry of Justice
102 Petty France
London
SW1H 9AJ

4 November 2025

Dear Lord Chancellor,

Re: Importance of Jury Trial

We, the undersigned, write in response to Sir Brian Leveson's proposals for a Crown Court Bench Division ("CCBD") and judge alone trials, set out in his Independent Review of the Criminal Courts, to express our deep concern and advice to reject uptake of these recommendations. The consequence would be the abolition of jury trial in a significant number of cases. To do so would not in our view improve the backlog of criminal trials, but simply move the problem into a new arena, which itself would cost significant funds to create and operate. While Sir Brian has made many recommendations to reduce the backlog in his Review that may be worthy of consideration, the CCBD and judge alone trials would be an irremediable error both for the longest standing fair trial right in this country, and for any proposed benefit to the system. The simplest solution is more court sitting days in existing courts, and judges and lawyers to staff them.

Jury trial

The right to trial by jury has existed since the concept of criminal trial. It is a fundamental feature of the common law. It is the basis upon which the state can legitimately condemn a person to punishment for committing a criminal offence. As Lord Devlin said in his 1956 Hamlyn Lecture on Trial By Jury, "*...[it] is more than an instrument of justice and more than one wheel of the constitution: it is the lamp that shows that freedom lives.*"

The community sits in collective judgment over its peers, reviewing the case according to the evidence, law and social norms. This is acknowledged in our nation to be the best way of ensuring confidence in the justice system. Its value was evidenced in *Bushel's* case when a jury refused to convict Quakers for preaching and the members were detained as a consequence; and last year when the principle of jury equity was confirmed in the *Trudy Warner* case.

While minor cases are dealt with in the magistrates' courts, it remained the system for many years that three magistrates would carry out that civic duty in trials within their jurisdiction. This number has since been eroded to two in some settings, and trials may even be presided over by one district judge sitting as judge of law and fact. It is also plagued by a lack of diversity, training and the true independence of a jury.

Nevertheless, the right to elect trial by jury has remained for a vast array of either way offences as well as trials on indictment. This is because in this country, trial by jury remains fundamental to the nation's concept of fair trial. Many people elect jury trial because they consider the judgment of 12 peers drawn from across the community is likely to be fairer than that of three, or fewer, volunteering magistrates.

The CCBD

The proposal for the CCBD is that a judge will sit with two lay magistrates for the majority of either way offences. This division will need infrastructure, administrative staff, clerks, judges, magistrates and lawyers to operate – all of which will be taken away from the Crown Court and magistrates' courts. Sir Brian importantly acknowledges that there is a recruitment and retention crisis in publicly funded criminal practice, which can only be met by an increase in legal aid. This is critical to addressing the backlog by whatever mechanism is proposed.

We fundamentally disagree with the proposal for the CCBD for the following reasons:

- (1) Magistrates would need to be recruited to sit in this court in significant numbers and for much longer periods than they currently sit for summary and simple trials. The magistracy has declined over the last decade and there is no certainty that sufficient numbers could be recruited.
- (2) Moving judges from sitting on Crown Court jury trials would result in fewer judges to work towards reducing the backlog. If funds can be found to recruit new judges, they should be directed to the existing Crown Court;
- (3) Facilities suitable to operate the CCBD would be required, with secure cells and docks, rooms for judges and magistrates to deliberate, as well as office and meeting space, consultation rooms and waiting areas – all the ingredients required for a functioning court building. If funds can be found to procure these facilities, they should be directed to Crown Court jury trials to reduce the backlog. Taking these facilities from existing Crown Courts will not reduce the existing backlog;
- (4) Jury trials are not overlong to the extent that significant savings will be made, and Sir Brian acknowledges that his time saving estimates are highly uncertain. The use of lay magistrates would require the same features of a criminal trial as currently take place before the Crown Court and magistrates' courts because they are lay people – clear and logical information elicited through speeches, witnesses, and evidence. Deliberation would still be necessary, in fact this will increase to account for legal arguments currently determined by judge alone. Moreover, a reasoned judgment would be required, which will take longer than a jury verdict to draft and deliver. In fact, it is often the case that juries are kept waiting while lawyers negotiate or make legal arguments, not that the court is waiting for the jury.
- (5) The estimates do not take into account the time that would be required to allocate cases to the CCBD, the legal arguments for and against at Pre Trial and Preparation Hearings (which will necessarily be made longer and require greater allocation of time, delaying progress in cases); the time wasted in progressing other cases when the jury would otherwise be out deliberating and appeal or judicial review of allocation decisions to the CCBD (which is essential for due process and fair trial).
- (6) The proposition assumes that Crown Court judges will want to sit as arbiters of fact rather than law. The burden of imposing criminal convictions given the serious consequences for the defendant and impact upon the complainant is one currently managed by lay people drawn from the community. This would be a fundamental distinction in their role, potentially adding unwanted additional pressure and scrutiny.

Trial by Judge Alone

Legislation already allows for judge only trial in limited circumstances but these occur extremely rarely. There has been debate around lengthy and complex trials for many years, on the

assumption that juries cannot follow the evidence in these cases, the impact on their lives and their cost.

We fundamentally disagree that these provide reasons to abolish jury trial for the following reasons:

(a) In 2016, JUSTICE produced a working party report *Complex and Lengthy Criminal Trials* chaired by Sir David Calvert Smith, where the members comprised legal professionals engaged in these kinds of cases. They concluded, with which we agree, that juries are more than capable of following the evidence and reaching safe verdicts, given proper assistance by the advocates and the judge.

(b) Each of the written tools, such as directions on law, summaries of evidence and routes to verdict that are utilised in these trials would be necessary for the judge to review or devise to ensure that they reached a proper and safe verdict alone or with financial experts in a panel. Moreover, a judge would have to produce a reasoned decision, which would take considerable time.

(c) The lack of certainty as to any time savings set out by Sir Brian equally applies to these kinds of cases as to either way cases; there is no evidence to suggest considerable time saving will be made. Far from the jury adding time in these cases, we suggest that it is the nature of the evidence presented by the prosecution that has ever increased. The JUSTICE working party also made recommendations in its 2016 report as to how to manage this material and with the advancement of electronic management systems, it is increasingly possible to analyse and present this information in a more efficient way. We suggest efforts should be focussed on reducing prosecution evidence to be presented at trial, as case management protocols now emphasise.

(d) The proposal for a panel of experts sitting with a judge raises many fundamental and practical concerns that were addressed in JUSTICE's report – how would such experts be chosen? The idea holds uncomfortable reminders of a time when only noblemen could sit on a jury. If jurors ought not to be expected to sit for lengthy periods, why should professionals working in the field of finance be expected to? Would they not require considerable financial compensation for their time?

(e) Whilst we acknowledge the undoubted impact that a long trial can have upon jurors, in the cases where they have been surveyed, many have indicated that they understand their civic duty and find the case they are trying interesting and important. We equally acknowledge the impact that a two-week rape trial involving a child complainant or a kidnap and murder case can have on jurors, yet fortunately there is no proposal to erode this important right in these cases.

(f) There is no evidence that lengthy trials reduce diversity among jurors, whereas replacement with one judge would certainly do so.

Lack of Diversity

Despite many efforts to increase the diversity of the judiciary and magistracy, there are still significant deficiencies amongst both groups. In particular, 84% of magistrates are 50 years old and over. We note with extreme concern the 2022 Racial Bias and the Bench report, which finds institutional racism amongst the judiciary. No matter what effort is put into ensuring the judiciary and magistracy reflects the population that it sits in judgment upon – and it is a long way off achieving this - it can never meet the diversity of 12 people drawn from the local community aged between 18 to 76 with a range of genders, ethnicities, backgrounds and experiences. As you will clearly recall, the Lammy Review found concerning disparity in outcomes in magistrates' courts for Black women and Chinese/other women, which required further understanding. The Lammy

Review concluded that a jury's deliberation as a group deters and exposes prejudice and unintended bias.

Conclusion

Parliament has considered reduction or removal of the jury on previous occasions – the Fraud Trials (Without a Jury) Bill 2006 was not passed into law. Section 43 Criminal Justice Act 2003 allowing for judge only trials in serious and complex fraud cases was repealed. Covid-19 tested the very fabric of the criminal justice system, but jury trial was preserved through Nightingale Courts.

We urge you to consider carefully and urgently ways to reduce the backlog in criminal trials, which is straining the right to a fair trial to its limits. However, we emphasise for all the reasons set out above, abolition of jury trial is not the solution.

Yours sincerely,

Henry Blaxland KC, Garden Court Chambers
Mark Gatley KC, Garden Court Chambers
Rajiv Menon KC, Garden Court Chambers
Icah Peart KC, Garden Court Chambers
James Scobie KC, Garden Court Chambers
Marc Williers KC, Garden Court Chambers
Simon Spence KC, Red Lion Chambers
Guy Gozem KC, Lincoln House Chambers
Joe Stone KC, Doughty Street Chambers
Jonathan Lennon KC, Doughty Street Chambers
Peter Wilcock KC, Doughty Street Chambers
Katy Thorne KC, Doughty Street Chambers
Liam Walker KC, Doughty Street Chambers
Ed Vickers KC, Red Lion Chambers
Michael Bromley-Martin KC, 3 Raymond Buildings
Mark Ford KC, Lincoln House Chambers
Richard Christie KC, 187 Chambers
Kerim Fuad KC, Church Court Chambers
Chris Henley KC, Mountford Chambers
Charles Bott KC, Mountford Chambers
Colin Aylott KC, Mountford Chambers
Nigel Lambert KC (retired), Mountford Chambers
Nigel Rumfitt KC (retired)
Piers Mostyn, barrister, Garden Court Chambers
Meredoc McMinn, barrister, Garden Court Chambers
Jodie Blackstock, barrister, Garden Court Chambers
Russell Fraser, barrister, Garden Court chambers
Hamish McCallum, barrister, Garden Court Chambers
Twanieka Alcindor, barrister, Garden Court Chambers
Shanice Mahmud, barrister, Garden Court Chambers
Ruby Selva, barrister, Garden Court Chambers
Daniella Davenport, barrister, Garden Court Chambers
Audrey Cherryl Mogan, barrister, Garden Court Chambers
Michael Goold, barrister, Garden Court Chambers
Thalia Maragh, barrister, Garden Court Chambers
Gerard Pitt, barrister, Garden Court Chambers

Elena Papamichael, barrister, Garden Court Chambers
Catherine Osborne, barrister, Garden Court Chambers
Shahida Begum, barrister, Garden Court Chambers
Alistair Polson, barrister, Garden Court Chambers
Michael House, barrister, Garden Court Chambers
Keir Monteith KC, barrister, Garden Court Chambers
Catherine Rose, barrister, Garden Court Chambers
Letitia Duffus, barrister, Garden Court Chambers
Gerwyn Wise, barrister, Garden Court Chambers
Tommy Seagull, barrister, Garden Court Chambers
Lee Sergeant, barrister, Garden Court Chambers
Tom Copeland, barrister, Garden Court Chambers
Christian Wasunna, barrister, Garden Court Chambers
Victoria Meads, barrister, Garden Court Chambers
Lalith de Kauwe, barrister, Garden Court Chambers
Lucie Wibberley, barrister, Garden Court Chambers
Will Hanson, barrister, Garden Court Chambers
Helen Butcher, barrister, Garden Court Chambers
Sangeetha Iengar, barrister, Garden Court Chambers
Patrick Roche, barrister, Garden Court Chambers
Alex Ryle, barrister, Garden Court Chambers
Talbir Singh, barrister, No 5 Chambers
Alison Lambert, barrister, Gough Square Chambers
Edmund Potts, barrister, 23 ES Chambers
Gwawr Thomas, barrister, 1 MCB Chambers
Jeremy Frost, barrister, Goldsmith Chambers
Rachel Bailey, barrister, 12 CP Barristers
Shannon Revel, barrister, Furnival Chambers
Richard Dawson, barrister, Lincoln House Chambers
Rebecca Filletti, barrister, Lincoln House Chambers
James Meredith, barrister, 9BR Chambers
Andrew Jebb, barrister, Linenhall Chambers
Andrew Kerr, barrister, 33 Bedford Row Chambers
Scott Tuppen, barrister, 33 Bedford Row Chambers
Tinessa Kaur, barrister, 33 Bedford Row Chambers
Gayle Bisbey, barrister, 33 Bedford Row Chambers
Ravinder Saimbhi, barrister, 33 Bedford Row Chambers
Graham Smith, barrister, 33 Bedford Row Chambers
Mark Stevens, barrister, 25 Bedford Row Chambers
Robin Howat, barrister, Public Defender Service
Jon Mitchell, barrister, 4BB Chambers
Ciarán Smith, barrister, 4BB Chambers
Toby Manhire, barrister, 4BB Chambers
Christopher Stables, barrister, Exchange Chambers
Hannah Forsyth, barrister, Exchange Chambers
Philip Tully, barrister, Exchange Chambers
Natalia Cornwall, barrister, Exchange Chambers
Charlotte Rimmer, barrister, Exchange Chambers
Mark Stephenson, barrister, Exchange Chambers
Victoria Smith-Swain, barrister, Exchange Chambers
Charlotte Kenny, barrister, Exchange Chambers
Marion Weir, barrister, Exchange Chambers
Rebecca Martin, barrister, One Pump Court Chambers
Carolina Bracken, barrister, 5 Paper Buildings Chambers

Avaia Williams, barrister, Parklane Plowden Chambers
Kate Riekstina, barrister, Great James Street Chambers
Elega Simpson, barrister, Foundry Chambers
Sophie Evans, barrister, Mountford Chambers
Mark Watson, barrister, Mountford Chambers
Ben Brown, barrister, Mountford Chambers
Joseph Sinclair, barrister, Mountford Chambers
Charles Hannaford, barrister, Mountford Chambers
Sebastian Winnett, barrister, Mountford Chambers
Chloe Birch, barrister, Mountford Chambers
Laura Paisley, barrister, Mountford Chambers
Anna Renou, barrister, Mountford Chambers
Ben Hargreaves, barrister, Mountford Chambers
Hugh O'Donoghue, barrister, Mountford Chambers
Jim Tilbury, barrister, Mountford Chambers
Stephanie Panchkowry, barrister, Mountford Chambers
Tony Venthams, barrister, Mountford Chambers
Tom Edwards, barrister, Mountford Chambers
Bianca Brasoveanu, barrister, Mountford Chambers
Silas Lee, barrister, Mountford Chambers
Abigail Penny, barrister, Mountford Chambers
Edward Henry, barrister, Mountford Chambers
Houzla Rawat, barrister, Mountford Chambers
Matthew Buckland, barrister, Mountford Chambers
Nicholas O'Brien, former barrister (retired, Albion Chambers)
Emma Torr, barrister and co-director, APPEAL
Matt Foot, solicitor and co-director, APPEAL
Frank Braze, solicitor, Sperrin Law Solicitors
Simon Hustler, solicitor, Charter Solicitors Ltd