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Institute for Fiscal Studies

IFS Report

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Productivity in the Crown Court

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Copy-edited by Judith Payne

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Executive summary

The new government has ‘placed a renewed focus on public sector productivity’ and has set ‘productivity, efficiency and savings’ targets for departments. In this report, we consider the productivity of the justice system, focusing in particular on the Crown Court of England and Wales, the court that deals with the most serious criminal offences. This is a part of the public sector that has rarely been considered in such terms, but one where increases in resources in recent years do not appear to have delivered improvements in performance. In particular, the backlog of outstanding cases in the Crown Court has risen sharply: it now stands at more than twice its level at the beginning of 2019, and is considerably higher than the Ministry of Justice had previously projected. It continues to grow.

In this report, we produce new estimates of productivity in the Crown Court and conclude that poor productivity performance in the period since the pandemic has been a major factor behind the growth in the backlog of outstanding cases. Although productivity appears to have markedly improved in the most recent months of data – especially after adjusting for increases in the average complexity of cases – this has not (yet) been sufficient to start to reduce the backlog.

Key findings

1. **The Crown Court had approximately 75,000 outstanding cases in 2024 Q4.** This ‘backlog’ of cases is 11% larger than one year earlier and 17% higher than where the Ministry of Justice previously predicted it would be in March 2025. It compares with an outstanding caseload of around 38,000 in 2019 Q4.
2. COVID-19 lockdowns caused a sharp increase in the Crown Court backlog, but **the backlog has increased, and continues to increase, since then despite a considerable increase in court resources.** The number of sitting days (i.e. the number of days that judges ‘sit’ in court each year to hear cases) increased by 29% between 2019 and 2024. **But the increase in Crown Court sitting days has not translated into a commensurate increase in the number of case disposals** (which were 17% higher in 2024 than in 2019). There has, in other words, been a reduction in the rate at which Crown Court ‘inputs’ (as measured by the number of court sitting days) are translated into ‘outputs’ (as measured by case disposals).

3. **This relationship can be summarised by the number of case disposals per sitting day.** This coarse measure of productivity fell sharply from 1.16 in 2019–20 to 0.96 in 2021–22 and 0.90 in 2022–23. It recovered somewhat to 0.97 in 2023–24, and then to 1.05 case disposals per sitting day in the first three quarters of 2024–25. **Had the case disposal rate remained at its 2019–20 level over the past four years, we estimate that the Crown Court could have disposed of an additional 78,000 cases** (between 2021 Q1 and 2024 Q4). That would, on the face of it, have been enough to entirely clear the case backlog. Changes in the case disposal rate are therefore of first-order importance to making sense of recent trends in Crown Court performance.
4. **One possible reason for the reduction in case disposals per sitting day is an increase in the average complexity of cases dealt with by the Crown Court** (with complexity defined here and throughout in terms of the amount of court resources required to deal with a case, rather than innate legal complexity). In particular, sexual offences and violent offences now make up a greater share of the outstanding caseload (around 46% in 2024, versus 33% in 2019). These cases tend to have longer hearing times, and defendants are less likely to plead guilty, meaning that each case disposal requires more court resources, and fewer cases can be disposed per sitting day.
5. Using a newly constructed measure of ‘complexity-adjusted productivity’, **we find that rising case complexity can explain some, but not all, of the reduction in the case disposal rate in the years since the pandemic:** complexity-adjusted productivity fell sharply after 2019, and remained comfortably below pre-pandemic levels until the second half of 2024. Of the cumulative shortfall of 78,000 case disposals between 2021 and 2024, **we estimate that only around one-third can be explained by rising case complexity.**
6. **Another key trend has been the pronounced and concerning increase in the number of ineffective trials** – trials that cannot go ahead and have to be rescheduled. These represented 36% of all trials in 2022, 27% in 2023 and 25% in 2024, versus around 15% in the years prior to the pandemic.
7. **Analysis of the underlying data suggests that ineffective trials are perhaps better thought of as symptoms of productivity problems, rather than causes.** There are particular issues with shortages of legal professionals (even in recent periods when criminal barristers have not been on strike); with ‘over-listing’ (where delays in a packed schedule mean that some trials must be postponed); and with other parts of the justice system (e.g. issues with the preparation of the prosecution case, or with transporting a prisoner to court on time). Whatever the interpretation, **we find that the**

increase in ineffective trials has had a relatively modest impact on the case disposal rate and on the backlog of cases. The increase does, however, point to the fragility and interconnectedness of the wider justice system.

8. Taken together, **our analysis suggests that poor productivity performance in the period since the pandemic has been a major factor behind the growth in the backlog of outstanding cases in the Crown Court.**
9. **Recent data paint a more positive picture.** After adjusting for changes in case complexity, we estimate that Crown Court productivity had recovered to pre-pandemic levels by the end of 2024 – a highly welcome development. **However, recent improvements have not been enough to make inroads into the outstanding backlog, which continues to rise.** Given the constraints on the rate at which sitting days can realistically be increased (e.g. court space, the number of judges and barristers), further improvements in productivity will very likely be needed for the government to make serious progress on reducing the backlog.

1. Introduction

In the run-up to what is likely to be a highly consequential and uncomfortably tight Spending Review, there is growing interest in the productivity of the public sector. The new government has ‘placed a renewed focus on public sector productivity’ and has set ‘productivity, efficiency and savings’ targets for departments (HM Treasury, 2024a). The previous government had also announced its own ‘Public Sector Productivity Plan’ prior to the general election (HM Treasury, 2024b). These efforts have no doubt been spurred, in part, by a general desire to achieve improvements in the quality of service provision without a need to spend vast sums of additional money. But there is also particular concern about the big fall in measured productivity in public services since the start of the COVID-19 pandemic (Warner and Zaranko, 2024).

Much of the focus and previous work in this area – including by researchers at IFS – has been on the National Health Service (e.g. Warner and Zaranko, 2022 and 2023). Here, we consider the productivity of another important part of government: the justice system. This part of the public sector has rarely been considered in such terms, at least compared with other areas of government. Yet it is of great importance: the productivity of the system will determine the quality of service that can be provided for a given amount of funding and resource. That, in turn, affects the experience of those who interact with the justice system – many of whom do so at a moment of particular vulnerability – and broader levels of trust in the state. There has been much focus on justice system performance, but less on productivity as a determinant of that performance.

We focus in particular on the Crown Court of England and Wales. The Crown Court deals with serious criminal cases (such as murder, rape or robbery), with appeals against a magistrates’ court conviction or sentence, and with cases passed from a magistrates’ court for trial or sentencing. It is perhaps what most laypeople imagine when they think of a court. The Court has faced a range of challenges in recent years (Richards and Davies, 2023), with a particularly marked deterioration in performance in the post-pandemic period. The backlog of outstanding cases (or ‘open caseload’ in the official parlance of the Ministry of Justice) – one key measure of service performance – has risen sharply and now stands at almost 75,000. This is more than double its level at the start of 2019. The government’s efforts to reduce the backlog have been the subject of recent reports from the National Audit Office (2024), the Public Accounts Committee (2025a) and the House of Lords (Brader, 2025).

In this report, we construct new estimates of productivity in the Crown Court, and use these to explore recent trends in productivity and associated impacts on the backlog of outstanding cases.

6 Productivity in the Crown Court

We start in Section 2 by exploring trends in ‘inputs’ (namely, court sitting days) and ‘outputs’ (case disposals). In Section 3, we combine these to construct a simple measure of court ‘productivity’, before going on to consider changes in the complexity of the Crown Court caseload and to construct a measure of ‘complexity-adjusted productivity’. In Section 4, we analyse the role of ineffective trials – trials that cannot go ahead and have to be rescheduled – in explaining recent trends. Section 5 quantifies the impact these various factors have had on the backlog. Section 6 concludes.

2. Recent trends in the Crown Court

The Crown Court sits in over 70 centres across England and Wales, including the Central Criminal Court (Old Bailey), and deals with the most serious criminal offences.¹ The Crown Court receives an inflow of cases (receipts). Disposals of these cases (e.g. reaching a decision) represents the outflow, and can be thought of as the ‘output’ of the system, and a proxy for the ultimate outcome of interest (the provision of justice).²

There are many inputs to a functioning courts system: judges, court staff (e.g. clerks and listing officers), legal professionals (for the prosecution and defence), court buildings and IT systems. One proxy measure for the amount of court resource – court inputs – is the number of sitting days, i.e. the number of days that judges ‘sit’ in court each year to hear cases. The ‘sitting day’ is ‘the unit of currency which has been used historically to determine the provision of resources’ in the court system (Lord Chief Justice, 2020) and is the measure used to allocate budgets, schedule courts and estimate capacity. It has also been the subject of recent government announcements on boosting court capacity (Ministry of Justice, 2024 and 2025b). The Lord Chancellor defines how many sitting days there are in a given year (HM Courts & Tribunals Service, 2021), based on forecasts made by the Ministry of Justice in collaboration with the Crown Prosecution Service, the Home Office and the police. We use sitting days as our measure of Crown Court ‘inputs’ throughout the report.

Figure 1 shows the trends in receipts (inflow of cases), disposals (outflow of cases) and sitting days over the last decade. As a general pattern, all measures show a steady decline over the 2010s, a collapse during the first COVID lockdown and a steady recovery thereafter. But, importantly, in the post-pandemic period, while all measures have continued to grow, they have done so at different rates. Panel B, which indexes all measures to quarter 2 of 2015, shows that while both receipts and sitting days were slightly above 2015 levels in the first half of 2024 (before dipping back slightly below 2015 levels in the final quarter of the year), the number of outgoing cases (‘disposals’) remained considerably lower than in 2015. Thus, despite a greater

¹ Magistrates’ courts, which handle less serious cases and the vast majority of all criminal cases, are outside of the scope of this report, but interactions between the magistrates’ courts and the Crown Court are briefly discussed in Section 3.

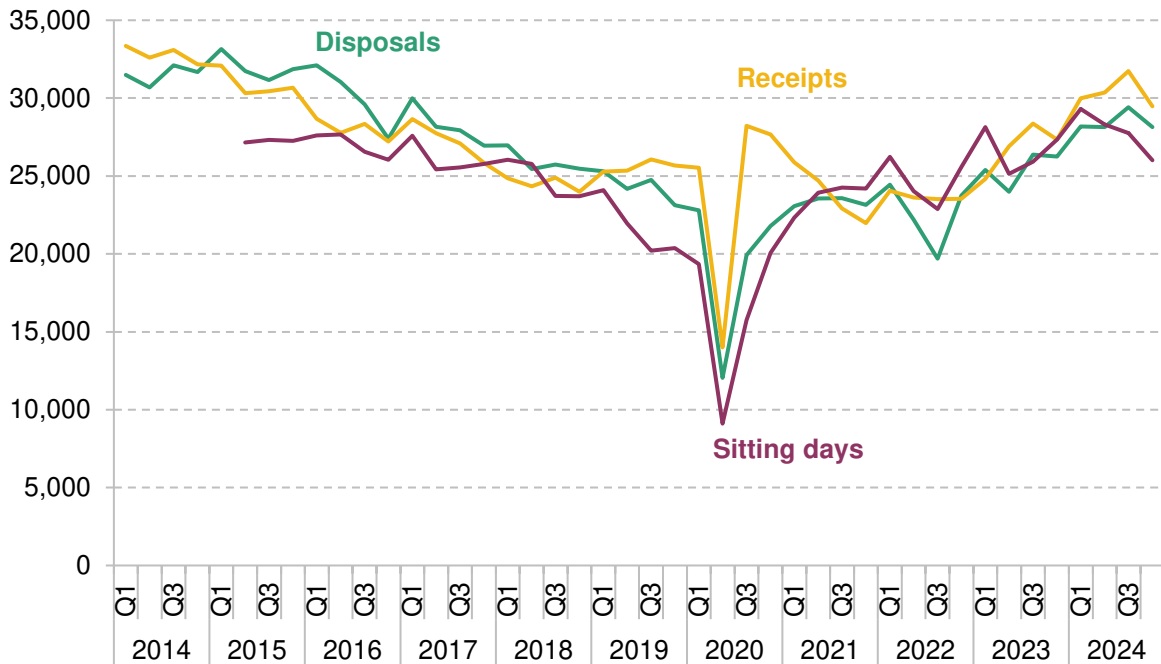
² For further details and formal definitions, please refer to Ministry of Justice (2025a).

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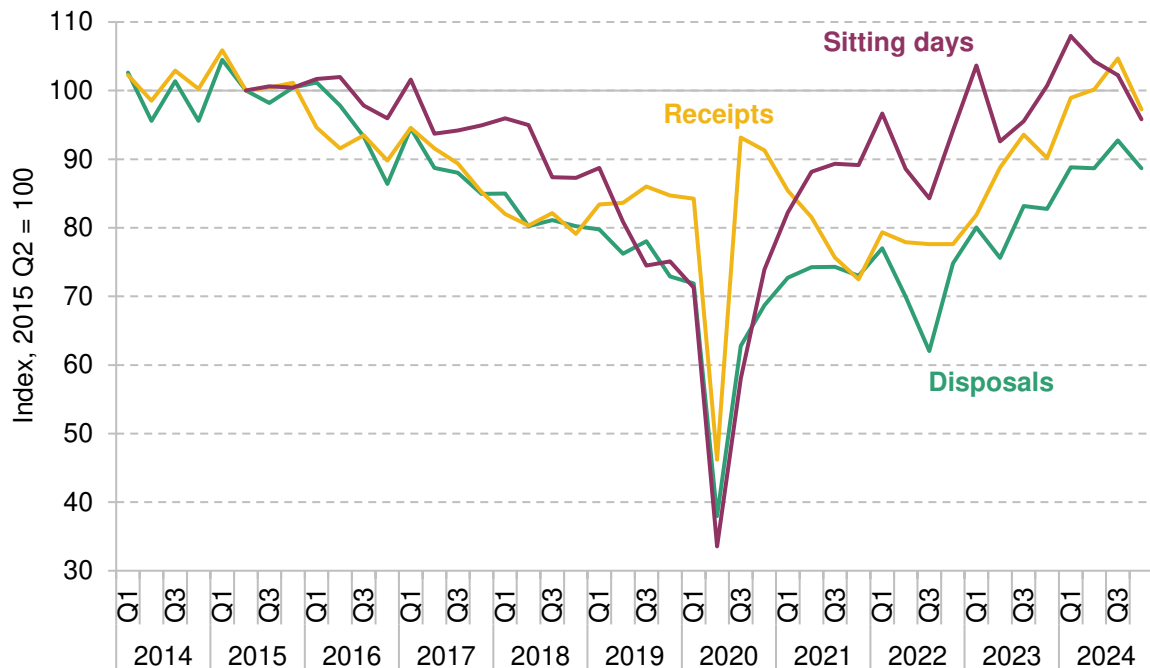
amount of resources (summarily measured by sitting days) in the Crown Court, this has been translated into a smaller outflow of cases.

Figure 1. Crown Court receipts, disposals and sitting days, 2014 Q1 to 2024 Q4

A. Absolute values



B. Indexed values (2015 Q2 = 100)

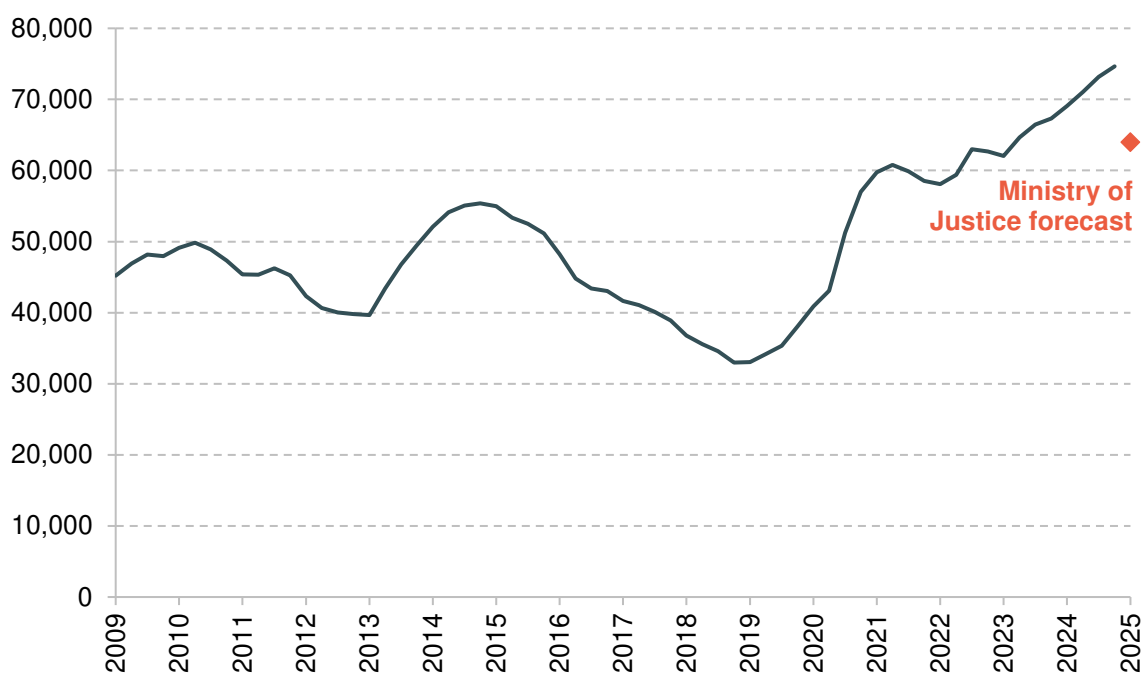


Source: Authors' calculations using Ministry of Justice, '[Criminal court statistics quarterly: October to December 2024](#)' and HM Courts & Tribunals Service, '[HMCTS Management Information, March 2025](#)', Crown Court sitting days by financial year.

9 Productivity in the Crown Court

At the same time, the number of case receipts has exceeded the number of case disposals. As a result, the number of outstanding cases, which is sometimes referred to as the ‘court backlog’, has increased. Figure 2 shows how the number of outstanding cases experienced a steep increase during the first year of the pandemic, and has since grown steadily. The latest available statistics (for 2024 Q4) indicate that the Crown Court has approximately 75,000 outstanding cases. This is 11% higher than one year earlier (around 67,000) and 17% higher than where a September 2023 Ministry of Justice projection suggested the backlog would be in March 2025 (64,000; National Audit Office, 2024).³

Figure 2. Crown Court outstanding caseload (‘backlog’), 2009 Q1 to 2024 Q4



Note: ‘Ministry of Justice forecast’ refers to a September 2023 projection for 64,000 outstanding cases in March 2025, as discussed in National Audit Office (2024).

Source: Ministry of Justice, [‘Criminal court statistics quarterly: October to December 2024’](#).

³ Data for the magistrates’ courts – which are not the focus of this report – show a similar picture: the outstanding caseload, or backlog, in 2024 Q4 was around 14% higher than a year earlier (approximately 310,000 versus 272,000).

3. Estimates of Crown Court productivity

A simple measure of court productivity

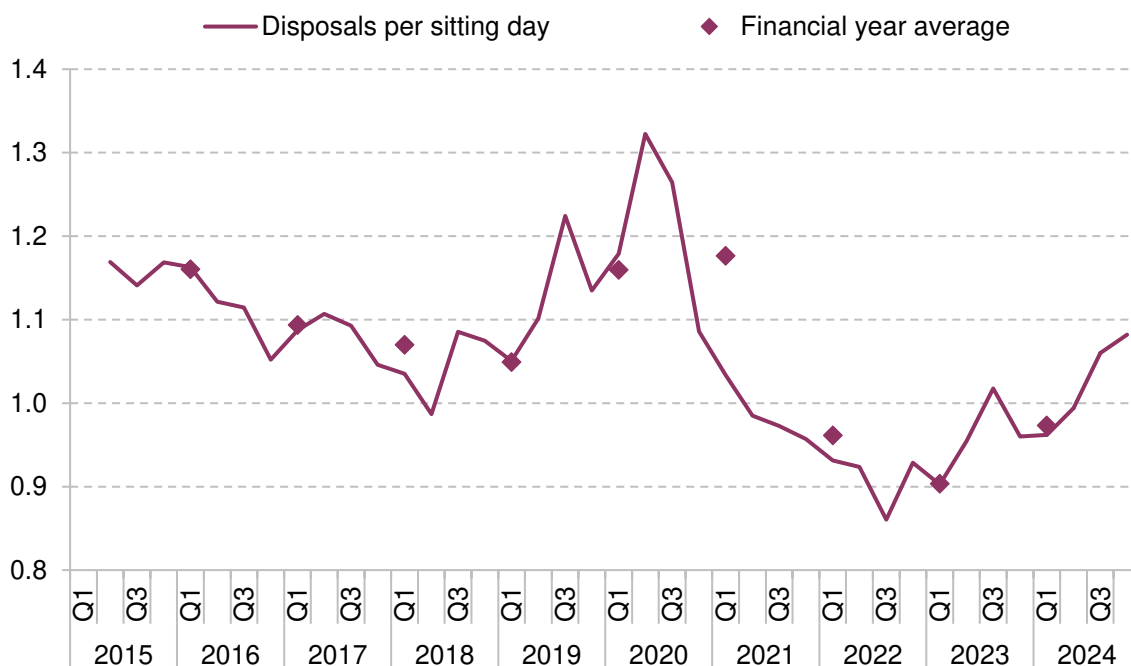
With the trends of the previous section in mind, we construct a proxy for ‘productivity’ in the Crown Court: the number of case disposals per sitting day. This (coarsely) portrays how many cases the courts are processing for a given amount of court resource. This is not a perfect measure. It does not capture all relevant inputs, nor does a simple count of case disposals reflect any changes in the composition of cases being dealt with or the quality of service provided (issues to which we return below). It is, nonetheless, informative about high-level trends within the court system. In the recent review of Office for National Statistics (ONS) measurement of public services productivity, the Ministry of Justice recommended that Crown Court case disposals be used as the measure of service activity (UK Statistics Authority, 2025). The official ONS estimates of productivity are, however, produced only with a significant time lag; our measure, while less sophisticated, provides greater insight on recent trends.⁴

Figure 3 plots this productivity measure over time. Whereas before the pandemic, the number of case disposals per sitting day was consistently equal to or higher than 1 (in 2019–20, the Crown Court disposed of 1.16 cases per sitting day), it has fallen since the onset of the pandemic. From 2021 to 2023, it was consistently below or equal to 1. The measure fell to 0.96 in 2021–22 and 0.90 in 2022–23, before recovering to 0.97 in 2023–24. Data for the first three quarters of 2024–25 (the final three quarters of the 2024 calendar year) show that this recovery has continued: the Crown Court disposed of 1.05 cases per sitting day in that period. While the recovery is striking, this is still below pre-pandemic levels.

The downward trend in ‘productivity’ in the early 2020s is also seen in the ONS’s official estimates of the productivity of ‘public order and safety’ services within the public sector. Although these capture a broader range of services than just the Crown Court, and run only to 2022, they show a similar pattern of decline: between 2019 and 2022, estimated productivity of public order and safety services fell by more than 10% (see Appendix Figure 1).

⁴ This measure follows a similar logic to those used in previous analyses of the productivity of the NHS, which paint a similar picture to other, more sophisticated, measures but which can be produced with a much shorter time lag (e.g. Warner and Zaranko, 2023; Harvey-Rich, Warner and Zaranko, 2024).

Figure 3. Crown Court case disposals per court sitting day, 2015 Q2 to 2024 Q4



Source: As for Figure 1.

Changes in case complexity

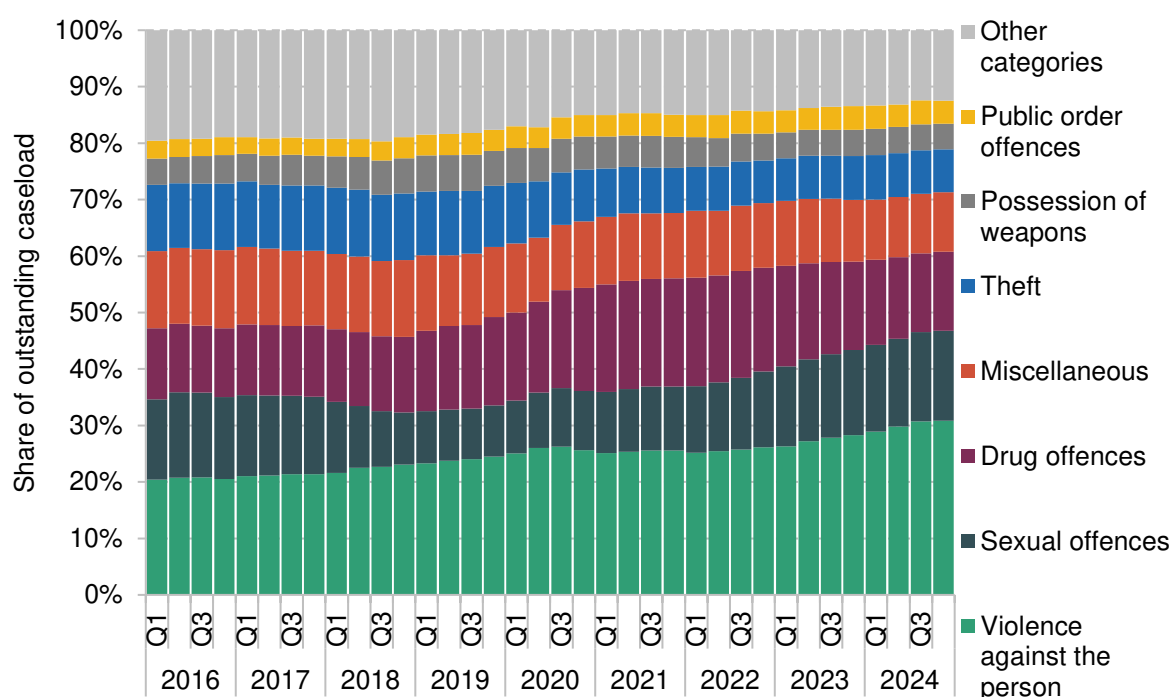
The Crown Court might be disposing of fewer cases for a given volume of sitting days because case complexity has been rising over time (National Audit Office, 2024). That is, if cases are more complex on average, they might take longer for the courts to deal with (e.g. require more and/or longer hearings), and fewer cases can be disposed per sitting day. A simple count of case disposals might, therefore, be missing the ‘true’ amount of work being done in the Crown Court, understate the ‘output’ of the system and paint an incomplete picture.

There are a number of reasons to suppose that the average complexity of cases might have increased in the post-pandemic period (thinking about ‘complexity’ here as the amount of court time and resource required in order to dispose of a case, rather than its innate legal complexity). One reason is that during the COVID-19 restrictions and the industrial action of defence barristers in 2022, the system focused on dealing with the simplest cases, meaning that those left to be dealt with subsequently were more complicated (National Audit Office, 2024). Another is that changes to magistrates’ sentencing powers ‘siphoned off’ some of the less complex cases. Specifically, between May 2022 and March 2023, the Ministry of Justice allowed magistrates’ courts to sentence defendants to up to 12 months in prison, rather than up to 6 months (ibid.). If a greater number of cases with sentences of between 6 and 12 months were seen by the magistrates’ courts, we might expect the average sentence length – and thus, perhaps, the average case complexity – in the Crown Court to have increased during that period.

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Another, more lasting, reason is that the mix of offences making up the outstanding caseload has changed. Figure 4 shows how the composition of the outstanding caseload has changed over time. The share of outstanding cases that involved sexual offences or violence against the person fell slightly from around 35% in 2016 to 33% in 2019, before increasing to around 42% in 2023 and 46% in 2024.⁵ Figure 5 shows how the absolute caseload in each category has changed. The number of outstanding cases involving violence against the person has increased by 134% since 2016 Q1, and the number of cases involving sexual offences has increased by 74%. In contrast, the number of outstanding theft cases now stands at only 1% above its level in 2016.

Figure 4. Outstanding cases by offence type

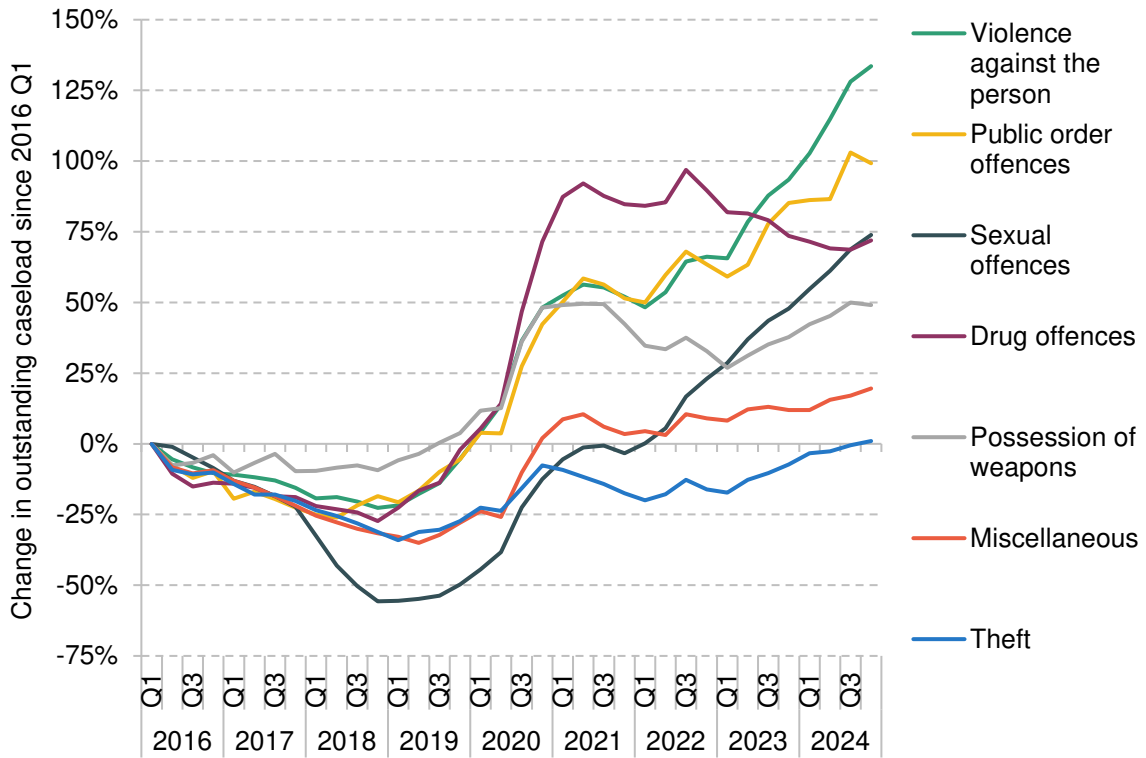


Source: Ministry of Justice, [‘Criminal court statistics quarterly: October to December 2024’](#).

The increase in the relative and absolute importance of violent and sexual offences to the Crown Court caseload is significant, because disposing of these cases tends to require more court resources. Figure 6 shows that the mean hearing time (the mean ‘total duration of all hearings heard in the Crown Court for each case including preliminary, main and sentence hearings’) in 2024 Q4 was 8.5 hours for sexual offences and 3.5 hours for violence against the person offences, versus an average 3.1 hours for all offences (and 2.4 hours for non-sexual, non-violent offences). Figure 6 also shows how mean hearing times have changed over time by offence group; outside of the pandemic period, these have been relatively stable (with sexual offences and violence against the person consistently having longer hearing times than average).

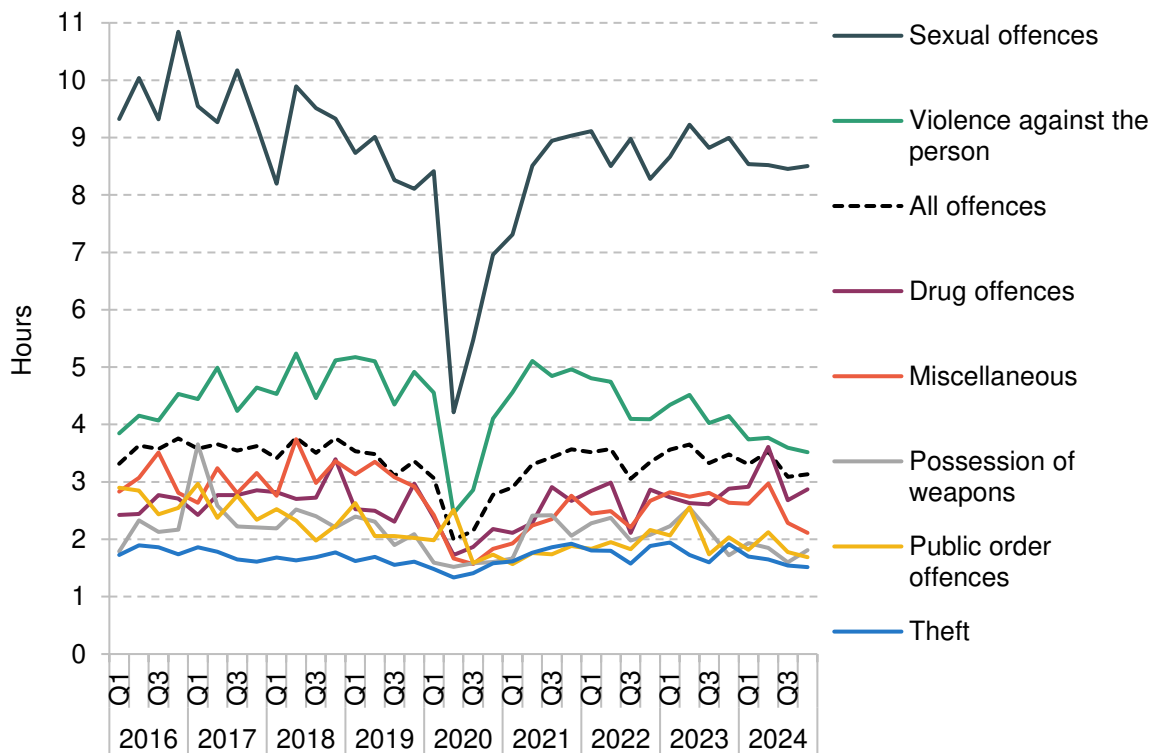
⁵ As a share of case disposals (rather than the outstanding caseload), sexual offences and violence against the person increased from around 26% of the total in 2019 to 36% in 2024.

Figure 5. Changes in outstanding caseload since 2016 Q1, for selected offence groups



Source: Ministry of Justice, 'Criminal court statistics quarterly: October to December 2024'.

Figure 6. Mean hearing time (hours), for selected offence groups



Source: Ministry of Justice, 'Criminal court statistics quarterly: October to December 2024'.

Additionally, the guilty plea rate for sexual offences and violence against the person offences is far below the average for all cases: while the average plea rate for all offences is 65%, for sexual offences it ranges from 18% to 39% (see Appendix Figure 2). This lower guilty plea rate might lead to longer cases with more hearings. There are also signs that when guilty pleas are entered, they are doing so at a later stage: the average number of hearings before a guilty plea is entered has increased from 1.9 in 2019 to 2.3 in 2024 (Appendix Figure 3). This could, in part, be a consequence of the backlog and longer waits for cases to be heard: defendants may be less likely to plead guilty when their trial date is years away. That, in part, could be due to a perception that the quality of evidence (e.g. witnesses' recollections) could deteriorate over the time it takes for the trial to be heard. This reflects a broader point: the case backlog itself (and the longer waits that go along with it) could be affecting defendant behaviour and the nature of the cases more generally.

Taken together, the evidence suggests that the shifting composition of the Crown Court caseload in the post-pandemic period, and the shift towards relatively time-intensive and complex sexual offence cases in particular, may help to explain why fewer cases are being disposed of per court sitting day. In the next subsection, we account for this in our constructed productivity measure.

A complexity-adjusted measure

As discussed above, a simple count of the number of case disposals is an imperfect measure of the 'output' of the Crown Court, as it does not account for the time and resource required to dispose of each of those cases, and will not reflect any changes in case composition or complexity over time. We use publicly available data published by the Ministry of Justice to construct a 'complexity-adjusted' measure of case disposals, which adjusts for the estimated amount of court time and resource required to dispose of each type of case (as captured by differences in average hearing time). While not a perfect or complete adjustment for complexity, this allows us to account for the impact of changes in case composition over time; see Box 1 for further details and caveats.

Box 1. Constructing a measure of complexity-adjusted Crown Court case disposals

We take as our measure of complexity the average (mean) hearing time for each offence type, where hearing time is defined as the 'total duration of all hearings heard in the Crown Court for each case including preliminary, main and sentence hearings'. This serves as a proxy for the amount of court resource required to dispose of each type of case. It is not a measure of innate legal complexity.

We construct the average hearing time for each offence group (for violence against the person, sexual offences, theft, drug offences, etc.) in 2019–20, and divide these by the average hearing time for all cases in the same period. We use hearing times in the pre-pandemic period to abstract away from any

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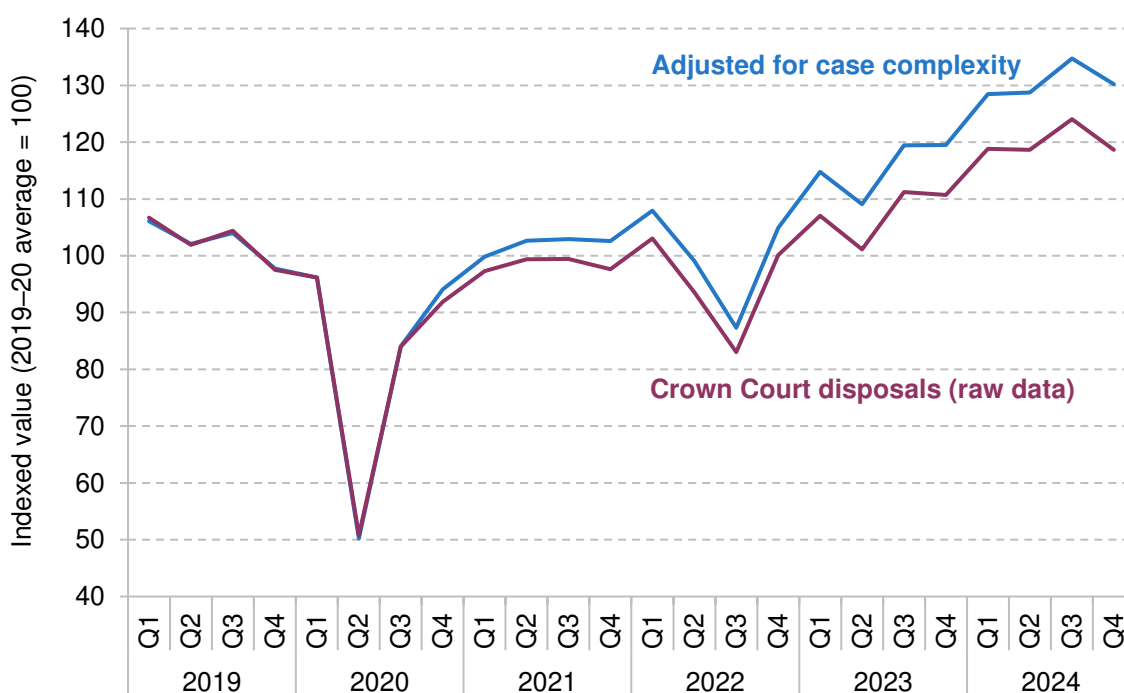
impacts of productivity and efficiency on hearing times in the later period. These ‘weights’ vary from 2.60 for sexual offences (i.e. an average hearing time 2.60 times higher than the average case) and 1.45 for violence against the person offences, to 0.24 for summary motoring offences.

Then, for each period, we multiply the number of case disposals of each offence type by the relevant hearing time ‘weight’ and sum these to give an estimate for ‘complexity-adjusted disposals’. This measure suggests that the average complexity of Crown Court case disposals (defined in terms of their average hearing times in the pre-pandemic period) was around 9% higher in 2024 than in 2019.

To the extent that differences in guilty plea rates across case types are reflected in average total hearing length, this will be captured by our measure. It will also reflect the impact of changes to magistrates’ sentencing powers, to the extent this affects the composition of cases reaching the Crown Court. But it does not, nor is it an attempt to, capture all aspects of case complexity.

We estimate that, on a complexity-adjusted basis, Crown Court disposals were 27% higher in 2024 than in 2019, versus 17% higher on an unadjusted basis (shown in Figure 7, indexed to the 2019–20 average). This largely reflects the fact that disposals of sexual offences and violence against the person offences – categories of offence which have longer-than-average hearing times – increased from 26% of all disposals in 2019 to 36% in 2024.

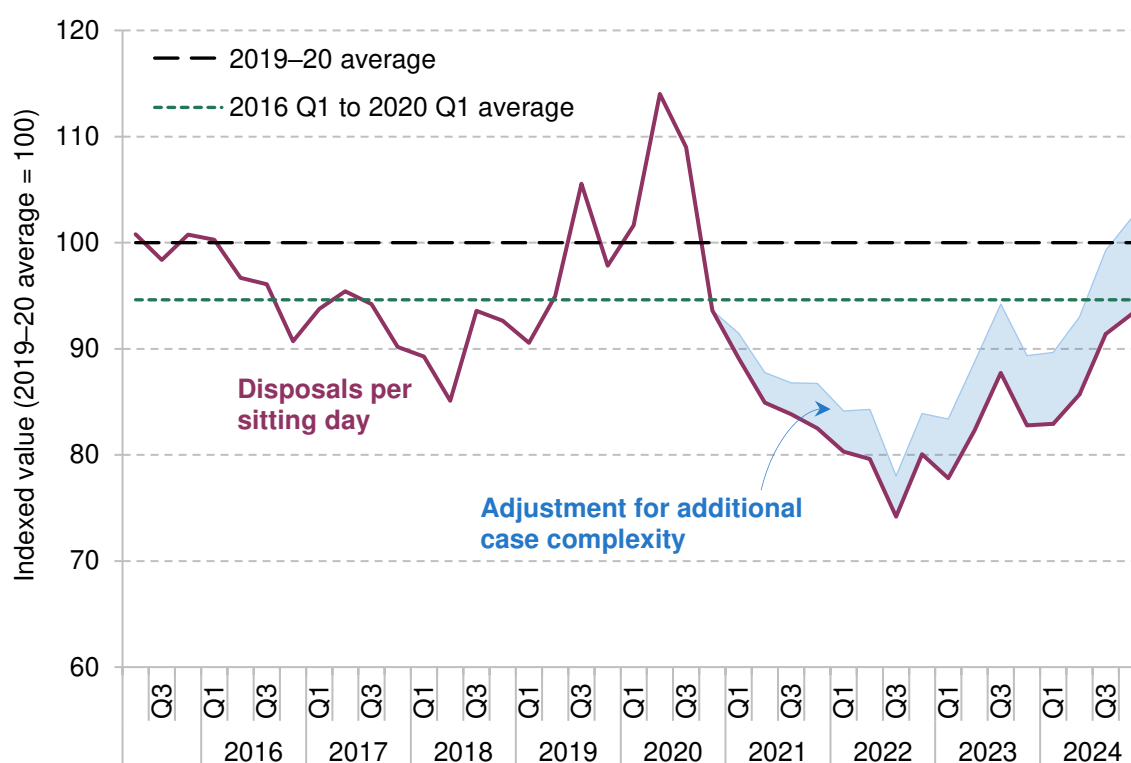
Figure 7. Change in Crown Court disposals, with adjustment for estimated case complexity, 2019 Q1 to 2024 Q4 (indexed values, 2019–20 average = 100)



Source: Authors’ calculations using Ministry of Justice, ‘[Criminal court statistics quarterly: October to December 2024](#)’. See Box 1 for details of the complexity adjustment.

We then use this measure of complexity-adjusted disposals to construct a measure of complexity-adjusted disposals per sitting day (i.e. complexity-adjusted productivity), shown in Figure 8. The shaded area shows the impact of our complexity adjustment.⁶ Our estimates suggest that increased case complexity can partially explain the reduction in case disposals per sitting day from 2021 onwards: between 2021 Q1 and 2024 Q1, our measure of complexity-adjusted productivity remained below the 2016–20 average, and even further below the 2019–20 average. The substantial increase in disposals – and disposals per sitting day – in 2024 means that on a complexity-adjusted basis, Crown Court productivity appears to have now returned to around its pre-pandemic level (as can be seen on the very right of Figure 8).

Figure 8. Crown Court case disposals per sitting day (indexed values, 2019–20 average = 100), with adjustment for case complexity



Source: As for Figure 1, with authors' calculations based on assumptions outlined in the text and Box 1.

In sum, our estimates suggest that an increase in case complexity contributed to the apparent reduction in Crown Court productivity in the post-pandemic period, but cannot explain all of it. In 2024, our estimates suggest that on a complexity-adjusted basis, Crown Court productivity has recovered to around – perhaps even above – its pre-pandemic level, after lagging behind for an extended period.

⁶ We apply the adjustment only from 2021 Q1, owing to the enormous disruption in the initial pandemic period.

4. The role of ineffective trials

Another reason why the same amount of court resources – as captured by the number of sitting days – might have led to fewer case disposals is the rising number of trials that do not conclude a case. Once cases reach the trial phase in the Crown Court, they can be either effective (meaning they commence as planned), cracked (meaning they are no longer required) or ineffective (where the trial had to be rescheduled). Ineffective trials are allocated a sitting day, but are unable to go ahead for some reason. This wastes the time of victims, defendants, witnesses, prosecutors and others who have turned up only to have the trial delayed. It also potentially means that court resources on the initially allocated date are not put to good use, unless there is another case available to fill the gap.⁷

Figure 9 shows the share of ineffective trials in the Crown Court, and groups these based on the recorded reason. The share of trials that are ineffective has increased from 16% in 2019 to 36% in 2022, before falling slightly to 27% in 2023 and 25% in 2024. The spike in 2022 was largely due to the industrial action of criminal defence barristers from April to October of that year (shown by the blue bar, labelled as ‘unavailability of counsel’). In 2023 and 2024, the most common reason for trials being ineffective was unavailability of witnesses or defendants (accounting for around 30% of ineffective trials in each year). Other common reasons include poor case preparation (around 25% of the total in 2023 and 2024) and over-listing or another case over-running (between 20% and 25%). Over-listing occurs when judges attempt to cram as many cases as possible into the available slots and, when things are delayed, some trials have to be rescheduled.

Table 1 breaks down the recent increase in the number of ineffective trials in more granular detail. There are a number of key points to take away.

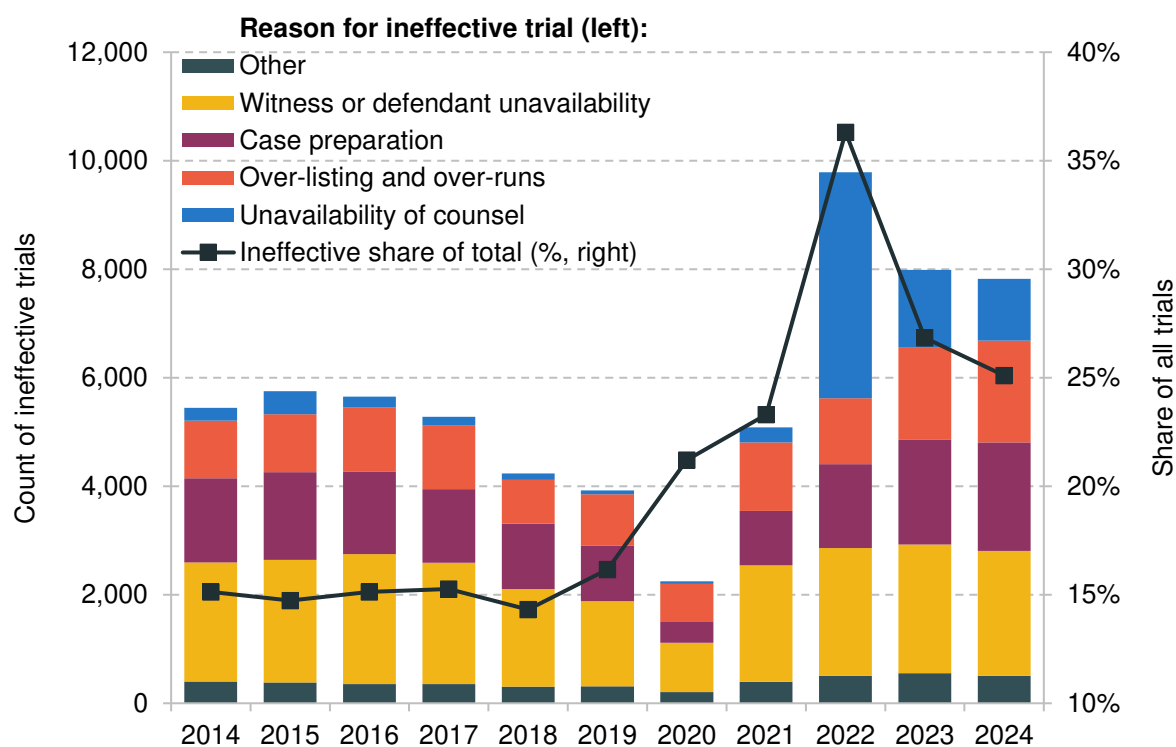
The first is that there has been remarkable growth in the number of ineffective trials in almost all categories. In other words, there is no single cause. The system as a whole appears to be functioning less effectively and efficiently.

⁷ The impact of cracked trials is less clear. A last-minute guilty plea might, for instance, allow for court resources to be devoted to other cases, and lead to a greater number of disposals overall. Or, if there is no case available to take its place, it might lead to court resources lying idle. We do not consider the impact of cracked trials here, but note that they have remained a relatively steady share of the total (31% of all trials in 2024, down slightly from 34% in 2019).

Second, the biggest single (absolute) contributor to the doubling of the number of ineffective trials has been the rise of ineffective trials due to over-listing or another case over-running (from 947 in 2019 to 1,881 in 2024). This is something which senior civil servants within the Ministry of Justice have described as being because ‘[they] have run the system much hotter’ and as ‘a symptom of the heat in the system’ (Public Accounts Committee, 2025b). There is certainly no reason to expect this number to be zero (indeed, it was not zero in 2019 when the system seemed to be functioning more effectively), and it may be an unavoidable side effect of attempts to race through a growing and increasingly complex caseload. But the doubling is nonetheless striking.

Third, some of the factors behind the recent increase in ineffective trials appear to be recent problems. Just one trial was ineffective in 2019 because the prosecution advocate was engaged in another trial, versus 209 in 2024 (for defence advocates, this went from 11 to 168). Eighteen trials were ineffective in 2019 because the prosecution advocate failed to attend, versus 444 in 2024 (for defence advocates, the equivalent went from 41 to 314). These are remarkable increases in a short space of time and point to workforce issues and shortages as growing problems within the system, even outside of strike periods.

Figure 9. Ineffective trials as a percentage of the total (right) and counts by reason (left), Crown Court



Note: ‘Over-listing’ is used here as shorthand for ‘Overlisting (insufficient cases drop out/floater/backer not reached)’ in the official tables. ‘Over-runs’ refers to cases where the reason is listed as ‘another case over-ran’.

Source: Ministry of Justice, ‘[Criminal court statistics quarterly: October to December 2024](#)’.

Table 1. Change in number of ineffective trials by reason, 2019 to 2024

	2019	2024	% increase, 2019–24	Increase, 2019–24
Ineffective trials (total)	3,922	7,822	+99%	3,900
<i>Memo: ineffective trials as % of total</i>	16%	25%		
Ineffective trials, by reason:				
Over-listing and over-runs	947	1,881	+99%	934
Prosecution advocate failed to attend	18	444	+2,367%	426
Prosecution not ready – other	311	714	+130%	403
Defendant absent – did not proceed in absence (judicial discretion)	570	922	+62%	352
Defence not ready – other	331	661	+100%	330
Defence advocate failed to attend	41	314	+666%	273
Prosecution advocate engaged in another trial	1	209	+20,800%	208
Defendant ill or otherwise unfit to proceed	313	482	+54%	169
Defence advocate engaged in another trial	11	168	+1,427%	157
Defendant not produced by prisoner escort custody services	74	186	+151%	112
Other	1,305	1,841	+41%	536

Note: 'Over-listing' is used here as shorthand for 'Overlisting (insufficient cases drop out/floater/backer not reached)' in the official tables. 'Over-runs' refers to cases where the reason is listed as 'another case over-ran'.

Source: Ministry of Justice, '[Criminal court statistics quarterly: October to December 2024](#)'.

Fourth, the figures point to the interconnectedness of the system. The number of ineffective trials due to a failure of prisoner escort custody services (i.e. a failure to get a prisoner to court on time) increased from 74 in 2019 to 186 in 2024 – a more-than-doubling, though not a major contributor to the overall increase in quantitative terms. The increase (from 311 to 714) in the number of ineffective trials due to the prosecution not being ready is more significant, and could point to issues within the Crown Prosecution Service or the police (where an influx of relatively inexperienced staff as part of the drive to add 20,000 police officers in England and Wales may have contributed).

Fifth and finally, Table 1 highlights the importance of understanding where the bottlenecks and constraints are within the system. The striking increase in the number of ineffective trials due to missing legal professionals points to staffing shortages as a likely constraint on efforts to boost the number of case disposals. Increasing judicial capacity and building more court rooms to increase the number of sitting days may have limited impact without corresponding increases to things such as the budget for criminal legal aid.⁸ The crucial context here is that the Bar Council finds that criminal law barristers often report lower levels of well-being and earnings than other areas of practice (Bar Council, 2024) and the Ministry of Justice’s budget for legal aid was dramatically cut over the 2010s.⁹ More generally, if staffing numbers and other inputs are difficult to increase, that only makes it all the more important that they are used efficiently.

To explore the role and quantitative importance of ineffective trials in explaining recent trends, we construct an estimate of their impact on the number of case disposals. Specifically, we assume that each ineffective trial would otherwise have led to a case disposal in the period in question. This can be thought of as an upper bound of the impact, because some ineffective trials will be relisted and heard within a short time frame, meaning that the case disposal is already included in the total number of disposals for that period. With that caveat, we can provide an upper estimate of the impact of the surge in ineffective trials on the rate of disposals per court sitting day.

Figure 10 shows the results of this exercise, with the shaded yellow section showing how our measure would have evolved if the ineffective trial rate had remained at its 2019–20 level. The largest impact would have been in 2022 during the criminal barristers’ strike; outside of that period, the impact would have been quite modest (especially as this almost certainly represents an upper bound on the actual effect).

In our view, the increase in the number of ineffective trials is best viewed as a *symptom* of declining Crown Court productivity, rather than as a *cause* or explanatory factor. It serves as a reminder of the interconnectedness of the system and the fact that a high-functioning Crown Court relies on other parts of the system functioning effectively, but it does not itself serve as an explanation for *why* productivity has dipped. Instead, it is a sign that courts are struggling to make the most efficient use of the sitting days funded by the government.

This interpretation is supported by an examination of the average amount of time spent hearing cases per court sitting day (which is one way of measuring the intensity with which court resources are being used). As with our productivity measure, there was a sharp reduction after

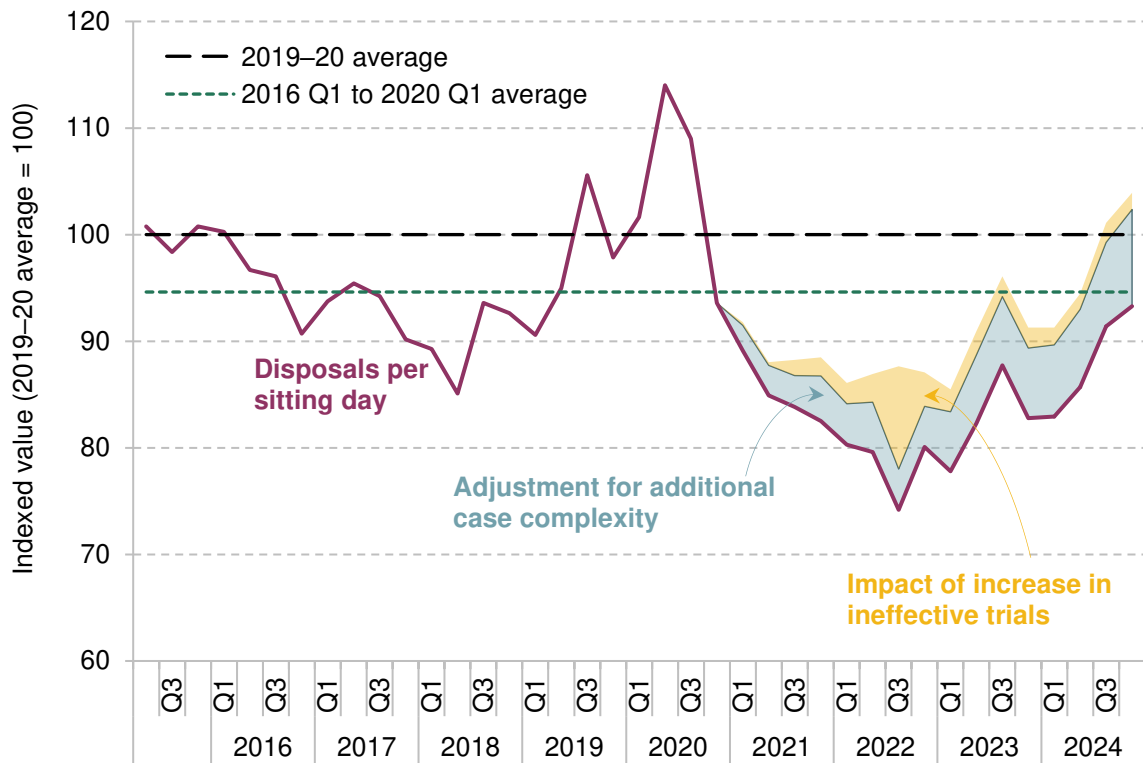
⁸ In previous periods, judicial capacity was more likely the binding constraint, though Ministry of Justice officials report that this is no longer the case (Public Accounts Committee, 2025b).

⁹ The Legal Aid Agency’s day-to-day budget was cut in real terms by 28.7% between 2007–08 and 2023–24 (Domínguez and Zaranko, 2025).

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the onset of the pandemic (from 3.9 hours per sitting day in 2019–20 to 2.9 in 2022–23), followed by a partial reversal (to 3.3 hours per sitting day in 2024–25) – see Appendix Figure 4. This, along with the rise in ineffective trials, indicates to us that court resources are being used less efficiently than was the case previously.

Figure 10. Crown Court case disposals per sitting day (indexed values, 2019–20 average = 100), with adjustment for case complexity and ineffective trials



Source: As for Figure 1, with authors' calculations based on assumptions outlined in the text and Box 1.

5. Impacts on the case backlog

What has the decline in the rate of case disposals per sitting day meant for the Crown Court backlog, and how much of this can be explained by case complexity and ineffective trials? To answer this question, we estimate how many cases the court system would have disposed of between 2021 Q1 and 2024 Q4 (cumulatively), in four scenarios:

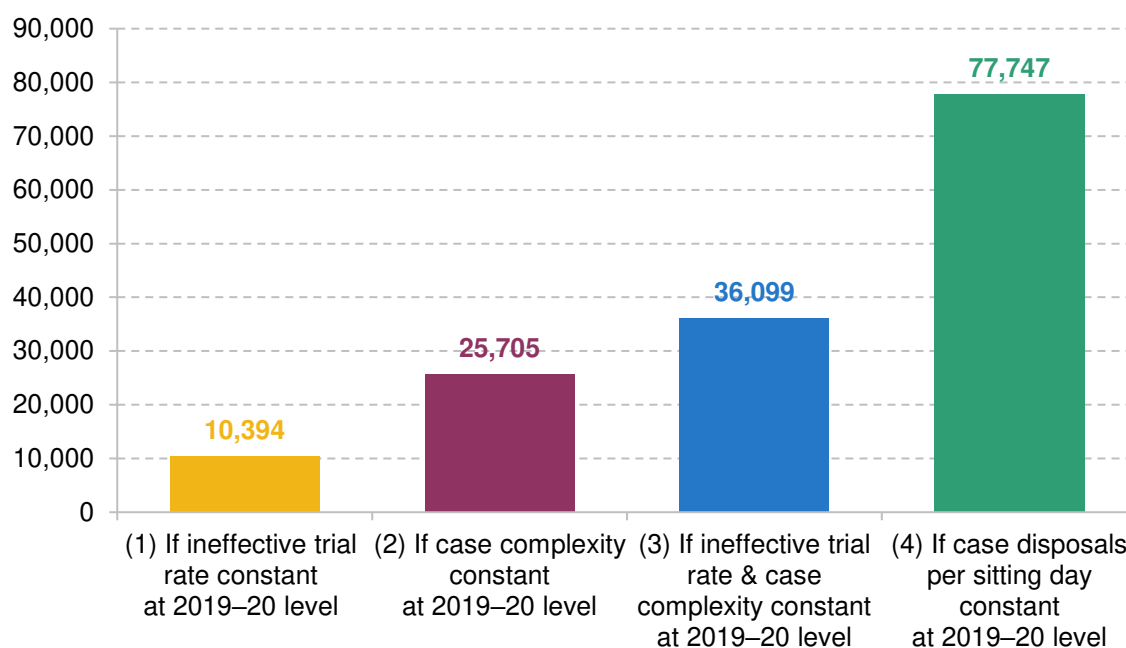
- **Scenario 1** – the ineffective trial rate remained at its 2019–20 level (18.5% of trials) from 2021 Q1 onwards. This corresponds to the yellow shaded area in Figure 10.
- **Scenario 2** – the complexity of cases (defined in terms of the average hearing time, as per Box 1) remained at its average 2019–20 level from 2021 Q1 onwards. This corresponds to the blue shaded area of Figures 8 and 10.
- **Scenario 3** – both the ineffective trial rate and case complexity remained at their respective 2019–20 averages from 2021 Q1 onwards (combining scenarios 1 and 2).
- **Scenario 4** – the rate of case disposals per sitting day remained at its 2019–20 level (1.16) from 2021 Q1 onwards.

Note that in each case we also assume that everything else (including the number of Crown Court sitting days) remained fixed. This is an illustrative exercise: had court productivity held up or case complexity remained constant, the government might not have increased the number of court sitting days by so much. It does, however, allow us to quantify the relative importance of different factors.

Figure 11 shows the results. Going from left to right, we estimate that the system would have disposed of around 10,000 additional cases over the 2021–24 period had the rate of ineffective trials remained at its pre-pandemic level (scenario 1). It would have been able to dispose of around 26,000 more cases with the same resources if case complexity had remained constant (scenario 2). Combining those implies that the two factors together explain a shortfall of around 36,000 case disposals (scenario 3). This compares with an extra 78,000 case disposals had the rate of disposals per sitting day remained at its 2019–20 level (scenario 4).

That is, the drop in the case disposal rate after the pandemic led to a shortfall of around 78,000 case disposals between 2021 and 2024, compared with a scenario where the case disposal rate had not declined. About one-third of this can be explained by cases becoming more complex on average.

Figure 11. Additional Crown Court disposals under different scenarios, 2021 Q1 to 2024 Q4



Note: Case complexity refers here to the mix of offence types, weighted by their average (mean) hearing time. Under the assumption that court sitting days and case receipts are unchanged, the number of additional disposals in each case is equal to the amount by which the outstanding caseload ('backlog') in 2024 Q4 would be lower. The outstanding caseload stood at 74,651 in 2024 Q4.

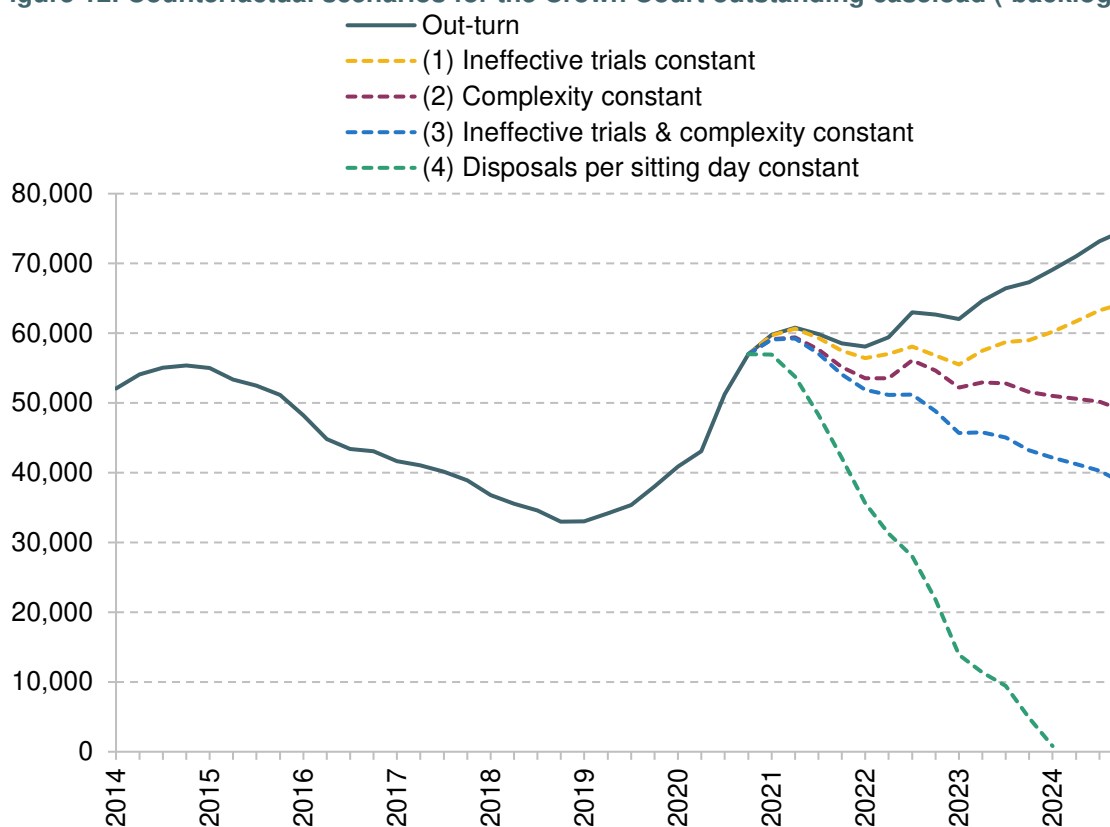
Source: Authors' calculations based on assumptions outlined in the text and Box 1.

Rising rates of ineffective trials are, arguably, a consequence of reduced productivity, rather than a cause. In any case, they have had a relatively modest impact on the overall number of case disposals (around 13% of the overall shortfall of 78,000 case disposals). Changes in complexity and ineffective trials *combined* can explain only half of the cumulative shortfall. This analysis is not exhaustive, and does not cover every possible contributing factor, but it suggests that the most commonly cited explanations can only partly account for recent trends.

Under the additional assumption that case receipts (demand) would have evolved in the same way (i.e. the same number of cases would have been sent to the Crown Court), we can estimate what would have happened to the outstanding caseload – the backlog – in each scenario. The values in Figure 11 correspond to the amount by which the backlog would be lower in 2024 Q4 in each scenario; Figure 12 shows how the backlog would have evolved over time. It shows, for example, that without an increase in the ineffective trial rate, the backlog would have stood at around 64,000 in 2024 Q4 (rather than around 75,000; shown by the dashed yellow line).

Without an increase in case complexity (scenario 2, the purple dashed line), the increase in sitting days in recent years would have been enough to have the backlog of cases on a gradually falling path, but the caseload in 2024 Q4 would have still been at a considerably higher level than pre-pandemic (around 49,000).

Figure 12. Counterfactual scenarios for the Crown Court outstanding caseload ('backlog')



Source: Authors' calculations based on assumptions outlined in the text and Box 1.

Most strikingly, had disposals per sitting day remained at its 2019–20 level (scenario 4, the dashed green line), the recent increase in sitting days would have been enough to entirely clear the backlog of cases by early 2024. The optimal number of outstanding cases is not zero. There will always be cases making their way through the system. And, had the caseload begun falling so rapidly, it is unlikely that the government would have felt the need to increase the number of sitting days by so much (as it did in 2023–24), or to make changes to magistrates' sentencing powers to reduce the inflow of cases to the Crown Court (National Audit Office, 2024). Maintaining disposals per sitting day at 2019–20 levels might be an unrealistic benchmark, due to the increases in case complexity discussed above. But this shows that the reduction in case disposal rates is of first-order importance when seeking to understand recent trends in the Crown Court backlog. We conclude that poor productivity performance in the period since the pandemic has been a major factor behind the growth in the backlog of outstanding cases.

The most recent data paint a more positive picture, and the increases in case disposal rates in the most recent year are to be welcomed. These have not been sufficient to put the backlog on a downwards trajectory, however. The recent success will need to be sustained, and built upon, if this government's efforts to bring down the backlog are to succeed where previous efforts have failed.

6. Conclusion

The Crown Court is under strain. A rising backlog of cases is one symptom of this strain. Funding and resources for the court system have increased. This is reflected in the fact that the number of court sitting days increased by 29% between 2019 and 2024. But for the vast majority of that period, the number of cases being disposed of failed to increase in lockstep, and this is a key reason why the backlog has continued to grow. In recent months, case disposal rates appear to have recovered to around the pre-pandemic level, especially after taking account of increases in case complexity, but this has not (yet) been sufficient to make inroads into the outstanding backlog, which continues to rise.

Does the post-pandemic reduction in case disposals per sitting day indicate a reduction in court productivity? The analysis presented in this report suggests that the answer is: yes, in part. Our estimates suggest that an increase in case complexity can explain only part of the fall-off in the case disposal rate. The increase in the ineffective trial rate – itself perhaps indicative of issues with efficiency and productivity within the justice system – can explain a smaller portion still. Combined, we estimate that these two factors can explain around half of the cumulative shortfall in disposals over the period between 2021 and 2024 (relative to the number of disposals we would have seen if disposals per sitting day had remained at pre-pandemic levels). We conclude that poor productivity performance in the period since the pandemic has been a major factor behind the growth in the backlog of outstanding cases.

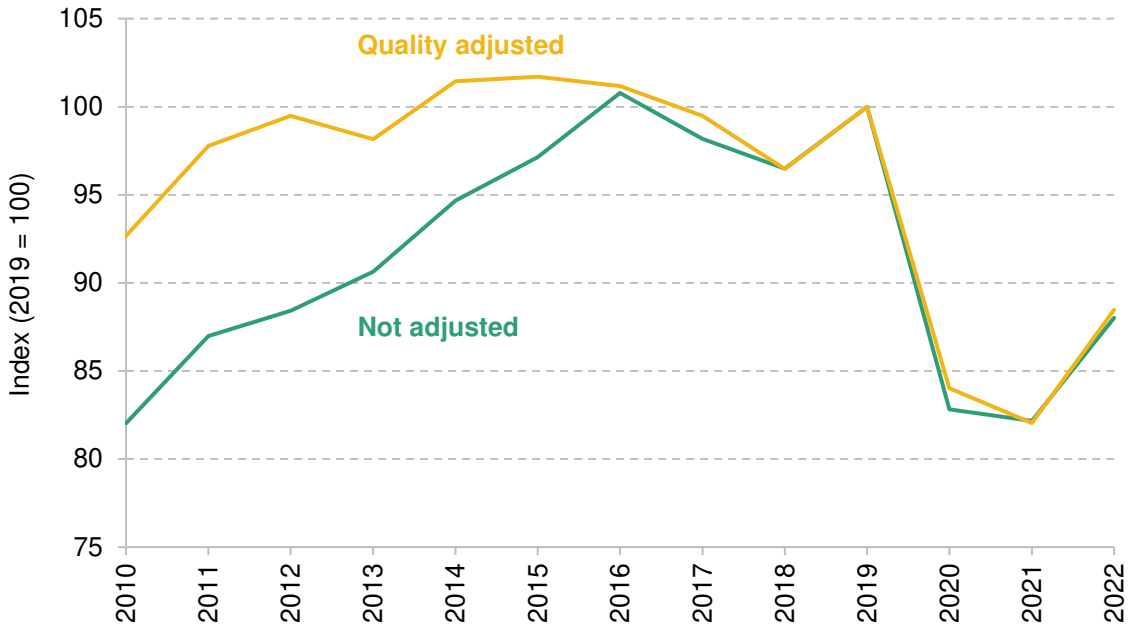
This conclusion is subject to caveats. Our complexity adjustment – based on differences in average hearing time across offence types – is no doubt imperfect. It will not reflect changes in complexity *within* offence type, nor changes that lead cases to require more court resources without this showing up in average hearing times. Nor do our estimates adjust for changes in the quality of service provided. One might argue that providing quality justice is the purpose of the system, not getting through as many cases as possible. Indeed, some scholars have argued that the pursuit of efficiency has been ‘to the detriment of social justice and procedural due process values’ (Yates, 2024). On the other hand, one could see Crown Court delays themselves as a deterioration in the quality of justice provided, given the harmful impacts such delays have on victims, witnesses and defendants (Murray, Welland and Storry, 2025). Lastly, our analysis of the underlying reasons for ineffective trials highlights the fragility and interconnectedness of the wider justice system, and the fact that improving Crown Court performance may also require concerted efforts elsewhere.

Our estimates also imply that in the most recent months of data, complexity-adjusted productivity in the Crown Court has recovered to its pre-pandemic level. This is something to celebrate. The same cannot be said of some other public services, not least the NHS, where official estimates suggest that hospital productivity remains around 8% below 2019–20 levels (NHS England, 2025). But making serious inroads into the Crown Court backlog will require further such improvements. There are constraints on the rate at which sitting days can realistically be increased (e.g. court space, and the number of judges and barristers); indeed, recent increases announced by the government have been relatively modest. To make meaningful progress, these extra sitting days will very likely need to be accompanied by an increase in the rate at which cases are disposed of, and potentially reforms to the broader system to make that possible. This might helpfully be considered as part of the forthcoming independent review of the criminal courts (Ministry of Justice, 2025c).

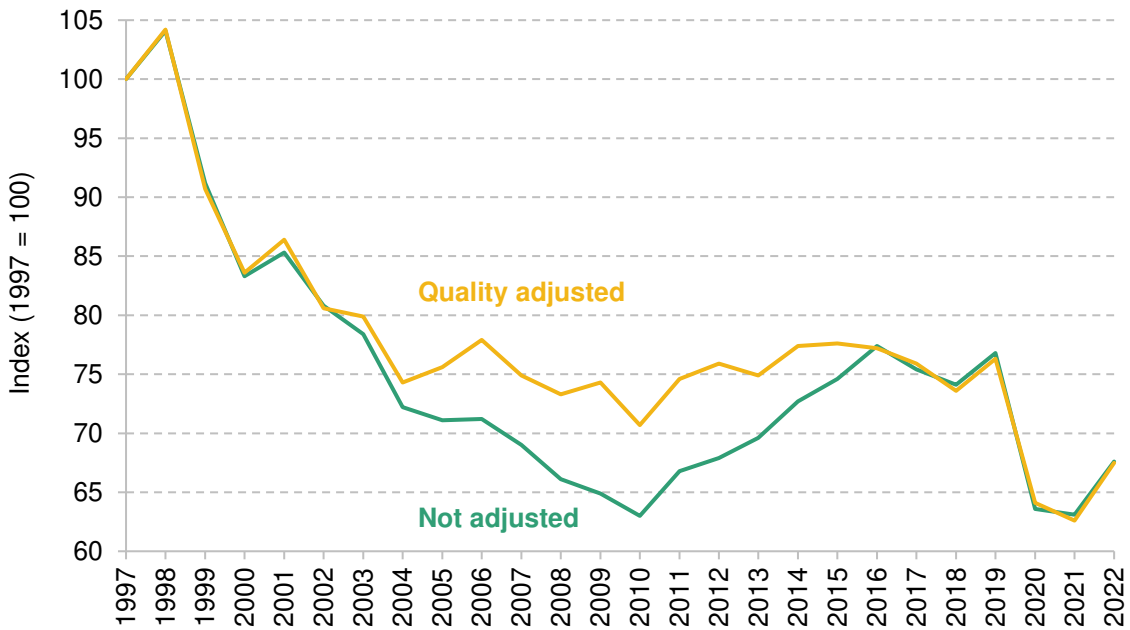
Appendix

Appendix Figure 1. Office for National Statistics estimates of ‘public order and safety’ public service productivity

A. 2010 to 2022 (2019 = 100)

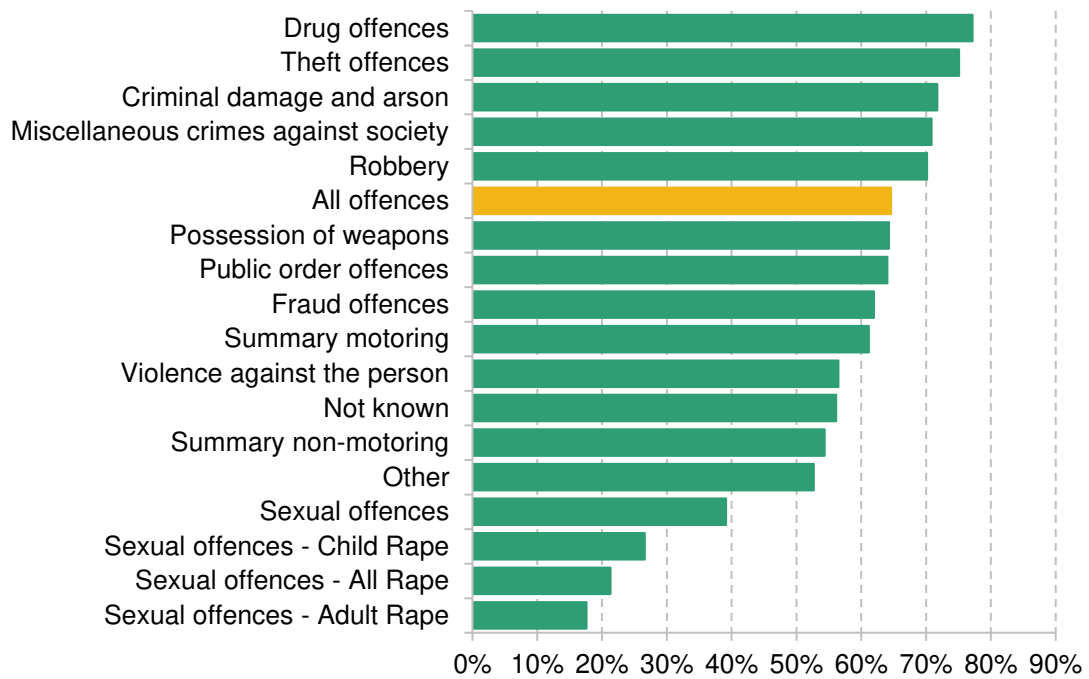


B. 1997 to 2022 (1997 = 100)



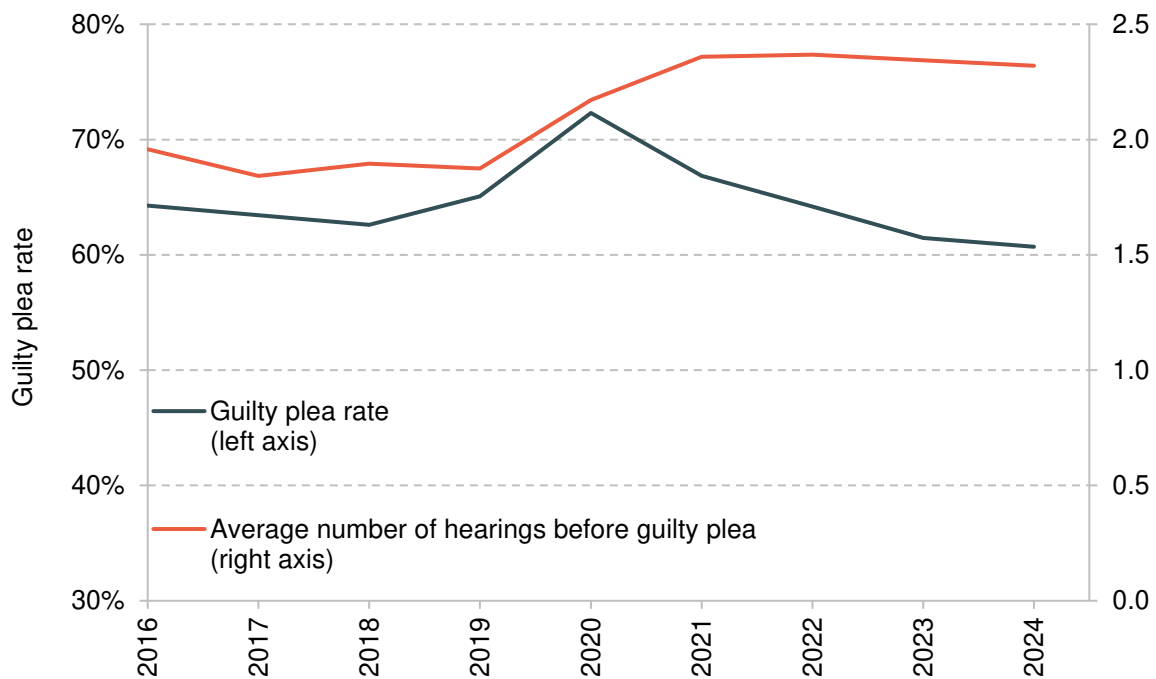
Source: Office for National Statistics, [‘Public service productivity: total, UK, 2022’](#).

Appendix Figure 2. Guilty plea rate by offence type, average 2016–24



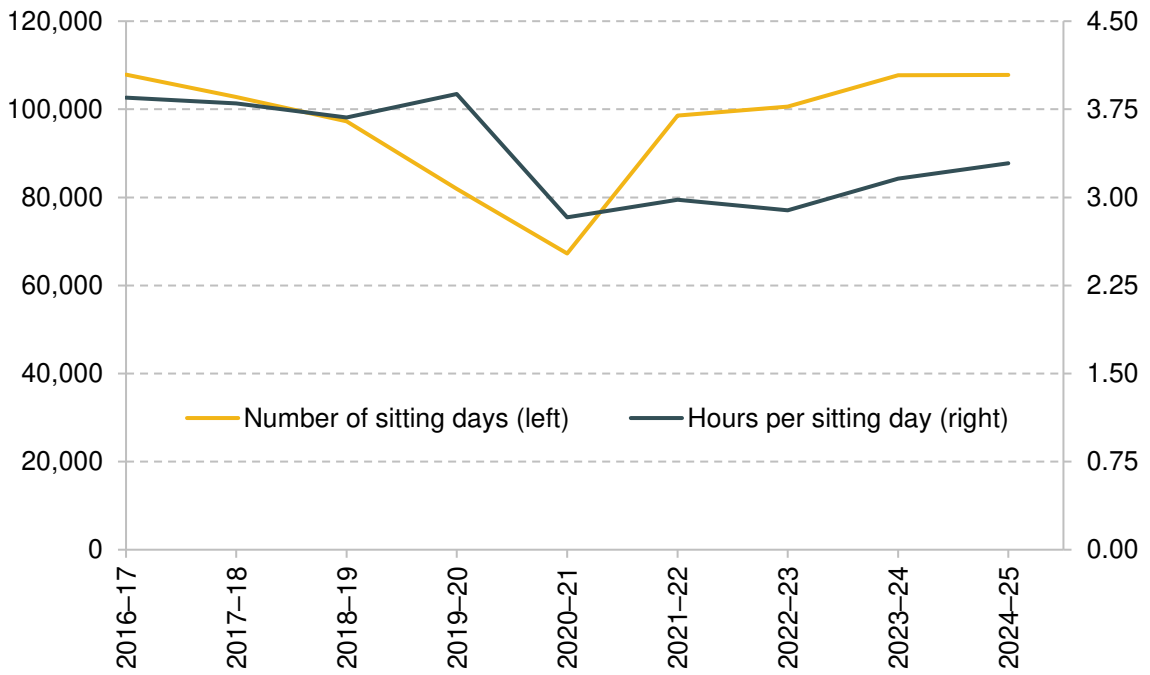
Source: Ministry of Justice, 'Criminal court statistics quarterly: October to December 2024'.

Appendix Figure 3. Guilty plea rate (left) and average number of hearings before guilty plea is entered (right)



Source: Ministry of Justice, 'Criminal court statistics quarterly: October to December 2024'.

Appendix Figure 4. Number of sitting days (left) and average hours per sitting day (right)



Source: Ministry of Justice, '[Criminal court statistics quarterly: October to December 2024](#)'.

References

- Bar Council, 2024. Wellbeing at the Bar report 2024. <https://www.barcouncil.org.uk/resource/wellbeing-at-the-bar-report-2024.html>.
- Brader, C., 2025. Reducing the crown court backlog. <https://lordslibrary.parliament.uk/reducing-the-crown-court-backlog/>.
- Domínguez, M. and Zaranko, B., 2025. Justice spending in England and Wales. <https://ifs.org.uk/publications/justice-spending-england-and-wales>.
- HM Courts & Tribunals Service, 2021. ‘Sitting days’: how are they decided? <https://insidehmcts.blog.gov.uk/2021/06/18/sitting-days-how-are-they-decided/>.
- Harvey-Rich, O., Warner, M. and Zaranko, B., 2024. NHS hospital productivity: some positive news <https://ifs.org.uk/articles/nhs-hospital-productivity-some-positive-news>.
- HM Treasury, 2024a. Autumn Budget 2024: fixing the foundations to deliver change. https://assets.publishing.service.gov.uk/media/672b9695fbd69e1861921c63/Autumn_Budget_2024_Accessible.pdf.
- HM Treasury, 2024b. Spring Budget 2024 speech as delivered by Chancellor Jeremy Hunt. <https://www.gov.uk/government/speeches/spring-budget-2024-speech>.
- Lord Chief Justice, 2020. Written evidence from the Lord Chief Justice of England and Wales. <https://committees.parliament.uk/writtenevidence/14840/html/>.
- Ministry of Justice, 2024. 2,000 extra sitting days to help address courts crisis. <https://www.gov.uk/government/news/2000-extra-sitting-days-to-help-address-courts-crisis>.
- Ministry of Justice, 2025a. A guide to criminal court statistics. <https://www.gov.uk/government/publications/a-guide-to-criminal-court-statistics>.
- Ministry of Justice, 2025b. Swifter justice for victims as courts sit at record level. <https://www.gov.uk/government/news/swifter-justice-for-victims-as-courts-sit-at-record-level>.
- Ministry of Justice, 2025c. Independent Review of the Criminal Courts. <https://www.gov.uk/guidance/independent-review-of-the-criminal-courts>.

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Murray, S., Welland, S. and Storry, M., 2025. Justice delayed: the impact of the Crown Court backlog on victims, victim services and the criminal justice system.

<https://victimscommissioner.org.uk/document/justice-delayed-the-impact-of-the-crown-court-backlog-on-victims-victim-services-and-the-criminal-justice-system/>.

National Audit Office, 2024. Reducing the backlog in the Crown Court. <https://www.nao.org.uk/wp-content/uploads/2024/05/reducing-the-backlog-in-the-crown-court-1.pdf>.

NHS England, 2025. NHS productivity update. <https://www.england.nhs.uk/long-read/nhs-productivity-update-feb-25/>.

Public Accounts Committee, 2025a. Crown Court backlogs.

<https://publications.parliament.uk/pa/cm5901/cmselect/cmpublic/348/report.html>.

Public Accounts Committee, 2025b. Oral evidence: Crown Court backlogs, HC 348.

<https://committees.parliament.uk/oralevidence/15404/html/>.

Richards, G. and Davies, N., 2023. Performance Tracker 2023: criminal courts.

<https://www.instituteforgovernment.org.uk/publication/performance-tracker-2023/criminal-courts>.

UK Statistics Authority, 2025. National Statistician's Independent Review of the Measurement of Public Services Productivity. <https://uksa.statisticsauthority.gov.uk/publication/national-statisticians-independent-review-of-the-measurement-of-public-services-productivity/pages/16/>.

Warner, M. and Zaranko, B., 2022. NHS funding, resources and treatment volumes.

<https://ifs.org.uk/publications/nhs-funding-resources-and-treatment-volumes>.

Warner, M. and Zaranko, B., 2023. Is there really an NHS productivity crisis? <https://ifs.org.uk/articles/there-really-nhs-productivity-crisis>.

Warner, M. and Zaranko, B., 2024. The fiscal implications of public service productivity.

<https://ifs.org.uk/publications/fiscal-implications-public-service-productivity>.

Yates, S., 2024. *Over-Efficiency in the Lower Criminal Courts. Understanding a Key Problem and How to Fix It*. Bristol University Press.

Data

HM Courts & Tribunals Service, 2025. HMCTS management information – March 2025.

<https://www.gov.uk/government/statistical-data-sets/hmcts-management-information-march-2025>.

Ministry of Justice, 2025. Criminal court statistics quarterly: October to December 2024.

<https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-october-to-december-2024>.

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Office for National Statistics, 2025. Public service productivity: total, UK, 2022.

<https://www.ons.gov.uk/economy/economicoutputandproductivity/publicservicesproductivity/articles/publicservicesproductivityestimatestotalpublicservices/2022>.