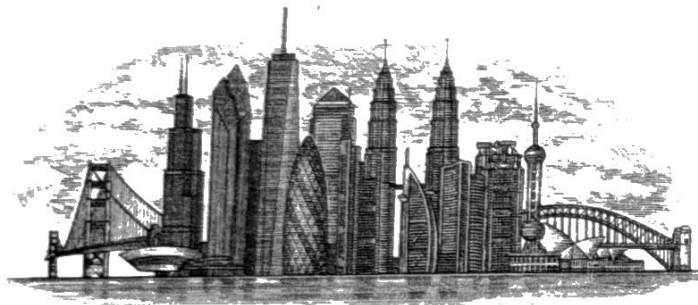


# The FT View



## FINANCIAL TIMES

'Without fear and without favour'

# Trial by jury is a right that needs protecting

*Beware of restricting it to tackle England's huge backlog of criminal cases*

Britain is known as a pioneer of the modern-day trial by jury, now a cornerstone of legal systems across much of the anglophone world. Admirers of its reputation for rule of law – a key national asset – might be shocked, then, to hear that radical plans are being discussed to end the right to jury trials in England and Wales for a huge range of criminal offences.

That such a moment has been reached is profoundly regrettable. Trial by jury for serious offences is a right in the British system dating back centuries – even if the majority of criminal cases, on lesser charges, are heard before magistrates. The plan to curtail it stems from a backlog of criminal cases in England and Wales that has doubled since 2019 to 78,000, thanks to

under-investment by successive governments compounded by Covid-era disruptions. As a result, many hearings are now delayed by more than a year.

The Labour government sees restricting jury trials as the only credible way to reduce the backlog. Such trials tend to take longer than those heard by a judge due to time needed for jury selection and deliberation, and slower presentation of evidence. A leaked memo from justice secretary David Lammy this week suggested ending the right in all cases expected to lead to prison sentences of five years or less, and for complex and lengthy fraud cases.

Defendants would lose the right to ask for a jury trial in cases that can currently go either before a judge sitting alone or a jury. A new "bench division" of the crown courts would be created, with a judge sitting alone. Only trials involving murder or manslaughter, rape, or cases with a special public interest element would still be heard before juries.

The proposals go well beyond those in

a July review by former judge Sir Brian Leveson, who suggested limiting jury trials to cases with likely sentences of three years or more. He recommended two magistrates would sit alongside the judge in non-jury cases.

Within days, after a backlash from judges and barristers, officials were briefing that Lammy's ideas would be scaled back. That still leaves Leveson's recommendations – which appear more moderate by comparison, but are nonetheless radical in scope.

The dilemma, in truth, is one any judge or jury would struggle to resolve. Legal experts still see the rendering of verdicts by a panel of a defendant's fellow citizens as the best guarantee of a fair hearing in weighty cases. Juries' common sense approach can counter legislative over-reach. Jury trials are a bulwark, too, against politicisation of judges. Some judges fear that, unlike juries, they could be subject to public or press attacks over unpopular verdicts.

Yet justice relies on the quality of the

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evidence. Long delays make it harder for witnesses to recall key details, and for juries to trust that they do. They mean unsatisfactory waits for accusers and the accused; justice delayed is justice denied. Leveson estimated his proposals would save 9,000 crown court sitting days, out of 110,000 sitting days in 2025-26.

Many lawyers say there is still scope to extend sitting days, and make the courts system more efficient through new technology. Investment would be needed, however, in training and infrastructure, when public finances are stretched to the limit. There may, sadly, be little practical alternative to adopting at least a limited version of the Leveson plans. But the government should find ways to free up resources for a parallel programme of modernisation; crime also matters to voters. And it should commit to reversing jury trial restrictions once the backlog has been tamed. This is a right that is too precious to be curtailed for good.