

The future of public services: digital justice

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About this paper

Much has been made of the role technology can play in delivering more efficient, intelligent and citizen-centric public services. Digital services will be crucial to meeting the Prime Minister's vision of a 'smarter state'. To date, however, public services have barely scratched the surface of technology's potential. This paper is the first in a series looking at the transformative role technology will play in the future delivery of public services.

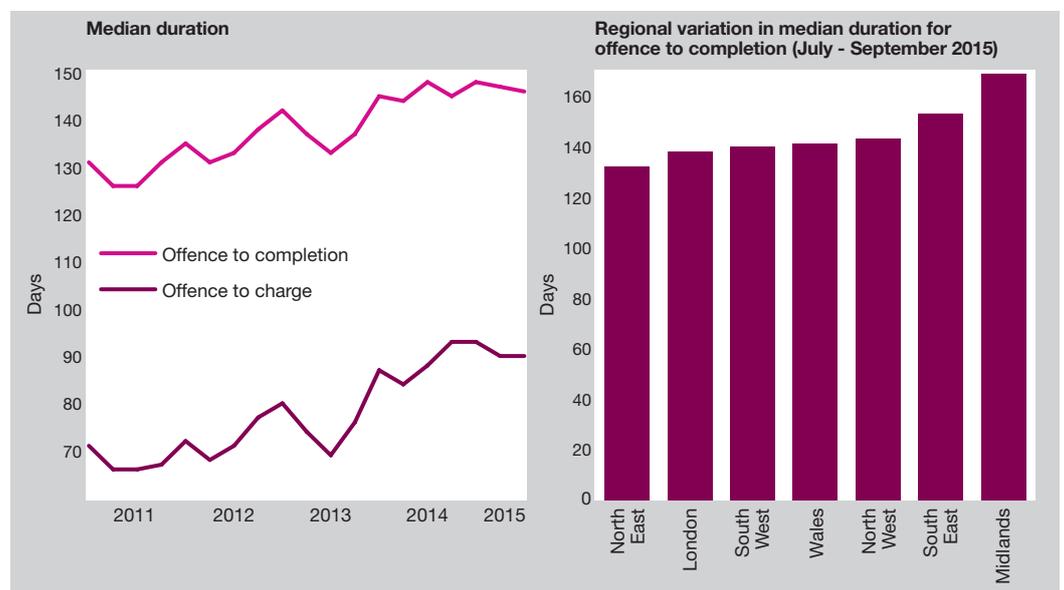
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A need for speed

Delivering justice at speed has been a long-standing policy objective. In 2012, the Coalition Government set out its ambition to create a judicial system that was “swift and sure”.¹ This was a natural extension of New Labour’s “simple, speedy, summary justice”, which in turn echoed Lord Hailsham’s focus on reducing court delays in the 1985 Civil Justice Review.² Even the Magna Carta aspired to a system whereby every citizen received justice without delay.³

Yet the UK’s court system remains cumbersome. Victims of crime now wait longer for cases to complete than when the Coalition came to power. In magistrates’ courts, the average duration has nearly reached five months, up 7 per cent since 2011. Significant regional variations are also evident, with the Midlands 28 per cent less efficient than the North East (see Figure 1).

Figure 1: Magistrates’ court: a swift process?



Source: Ministry of Justice, ‘Criminal court statistics quarterly, England and Wales’, December 2015

These trends are worrying. Confidence in the judicial system rests on a proximate relationship between crime and punishment. This is particularly true of victims, who are less likely to believe the police are concerned about resolving their case the longer it drags on.⁴ Waiting for a trial can also weigh heavily on the victim’s physical and mental wellbeing. Victim Support recently argued that “reducing the time between offence and trial should be a priority for the criminal justice system.”⁵

Perhaps most worryingly, the duration of a case affects judicial outcomes. Given many victims and witnesses know or live in the same community as the defendant, anxieties about supporting the case through testimony can intensify over time. Indeed, nearly a third of cases that collapsed in 2014-15 were due to victim and witness issues.⁶ Inevitably this has an impact on criminals’ perception of the justice system. “The fear of getting caught used to be the key deterrent,” argues Tim Godwin, former acting Commissioner of the Metropolitan Police and now Managing Director of Defence and Public Safety at Accenture, “but attrition rates for court cases are so high that this is now eroding.”

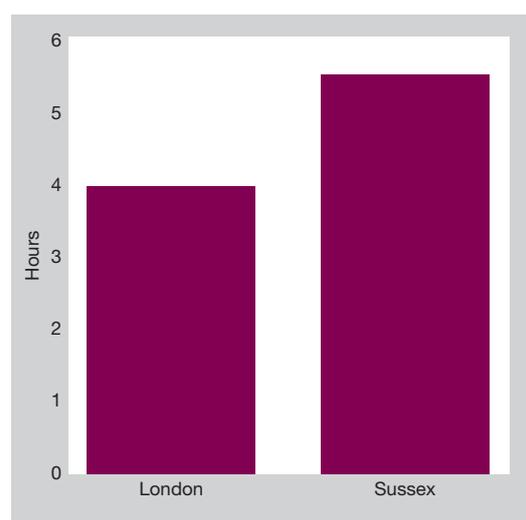
1 Ministry of Justice, *Swift and Sure Justice: The Government’s Plans for Reform of the Criminal Justice System*, 2012.
 2 Home Office and Department for Constitutional Affairs, *Delivering Simple, Speedy, Summary Justice*, 2006; Lord Chancellor the Lord Hailsham of St Marylebone, ‘Civil Justice Review’, HL Deb 6 February 1985, c1201-2WA.
 3 Ministry of Justice, *Swift and Sure Justice*.
 4 The Audit Commission, *Experiences of the Criminal Justice System – Victims and Witnesses of Crime*, 2003.
 5 Victim Support, *Waiting for Justice*, 2015.
 6 HM Crown Prosecution Service Inspectorate, *Witness for the Prosecution*, 2016.

For a Government that is still bearing down on the deficit, the potential financial gains of more efficient courts are attractive. In last year's Spending Review, the Ministry of Justice was tasked with finding 15 per cent savings on day-to-day expenditure by 2019-20, and 50 per cent savings on back-office functions.⁷ With magistrates' courts only being used 47 per cent of the time, increasing utilisation while reducing the estate could help meet these challenging targets.⁸ In addition, while the police budget was ring-fenced during the Spending Review, the need for reform is equally acute. Court inefficiencies clog up police resource, diminishing the scope to meet the big policing challenges: reducing high harm crime, meeting changing demand and integrating with other key public services.⁹

Video justice: theory and practice

The use of video technology is a key part of the answer to these interrelated issues. By convention, court hearings are dependent on getting every relevant actor in the same room at the same time. Particularly at the early stages of the judicial process, this exercise is unnecessary and expensive. Lord Leveson's review of efficiency in the criminal justice system (CJS) concluded pre-trial and case-management hearings are effectively administrative procedures that could be expedited via video technology.¹⁰ A virtual court, which establishes a video link between defendants detained in police custody and a court room, could reduce the time between custody and first hearing from hours to minutes. Transporting defendants who are detained in prison is a time-consuming and risky operation that could be avoided by police to court video links, as could the expense attached to running court custody facilities. In Sussex, the average amount of time wasted for a police officer per court attendance is five and a half hours (see Figure 2). If police were able to give evidence remotely via a video link, this could be cut significantly, freeing up resources that could be used to keep communities safe.¹¹

Figure 2: Police officer hours wasted per attendance at court



Source: Accenture and Sussex Police and Crime Commissioner, unpublished research, 2015.

To date, however, the case for video enabled justice (VEJ) has not held in practice. A trial in 2009 found a "video link between a police station and a court could be successfully used to conduct a first hearing in the majority of cases."¹² Reduced transportation costs, administrative expenses and timelines for custody cases were also found. However these savings were outweighed by high capital costs, and the increased burden on court-operating hours, custody officers and staff tasked with overseeing the virtual court hearings. Even on the most optimistic assumptions, the pilot concluded achieving break-even would only be a possibility.¹³

Given the savings digitisation has delivered elsewhere and the obvious benefits of VEJ, what explains this shortcoming? Four lessons from the pilot emerged, the first of which was the

7 HM Treasury, *A Country That Lives within its Means: Spending Review 2015*, 2015.

8 Ministry of Justice and HM Courts and Tribunals Service, *Proposal on the Provision of Court and Tribunal Estate in England and Wales*, 2015.

9 Reform, *How to Run a Country: The 2015 Spending Review*, 2015.

10 The Rt Hon Sir Brian Leveson, *Review of Efficiency in Criminal Proceedings*, 2015.

11 Accenture and Sussex Police and Crime Commissioner, unpublished research, 2015.

12 Matthew Terry, Steve Johnson, and Peter Thompson, *Virtual Court Pilot Outcome Evaluation*, 2010.

13 Ibid.

necessity of scale. Tweaking the model implemented in Camberwell could yield improvements – the exclusion of violent offenders, who are the most expensive category of defendant to transit to hearings, is an obvious error that undermined the financial case. Yet so long as VEJ remains a cottage industry, the efficiency and savings potential will not be unlocked. Upfront investment in technology and infrastructure will only make financial sense if there is a considerable increase in volumes.

Second, high volumes are only manageable with intelligent scheduling software. The manually controlled system deployed in Camberwell – which consisted of an electronic calendar with four fixed, 15-minute hearing slots each hour – contributed to low utilisation (64 per cent).¹⁴ Moreover, a tier of court staff needs to be responsible for the smooth functioning of the technology, supporting participants preparing to enter the virtual court and ensuring wasted time is minimised. Existing staff will have many, but not all, of the skills required to carry out this function. Helping the workforce adapt to these new challenges will be a crucial determinant of success in future pilots.

Third, institutional resistance can hamper reform. The judiciary's reticence to use video links meant one London police station in the Camberwell pilot directed only 3 per cent of adult cases through the virtual court.¹⁵ At one level, this is hardly surprising – the judiciary, police and prosecution service are, quite rightly, fiercely independent. Establishing a more collaborative approach requires leadership from each organisation, as well as someone accountable for aligning interests and pressing forward the reform agenda.

Such an individual would also be responsible for managing the business case across agencies. This was the fourth lesson from Camberwell. The perennial public-sector problem of co-ordinating action when budgets are not pooled is neatly encapsulated by VEJ. Reductions in police time delivered by live links are dependent on the effectiveness of a court-administered scheduling service; efficiencies gained through virtual courts depend on investment in the police estate. Without a multi-agency approach, there is little prospect of realising either the volumes or joint investment needed to deliver the full benefits of VEJ.

Sussex: a new model

A new VEJ pilot based in the South East has the potential to address these four lessons. Funded by a two year, £1.1 million grant from the Police Innovation Fund, the partnership plans to go beyond the 2009 model by including remand hearings and summary trials.¹⁶ The use of victim/witness and police officer live links will also be tested. The broader remit will be matched by a larger geographical area – London, Surrey, Kent and Sussex are all on board. It amounts to the 'industrialisation' of video technology in the CJS.

Katy Bourne, Police and Crime Commissioner (PCC) for Sussex, has spearheaded the project. Previous trials were undertaken without the leadership of a PCC, a figure which occupies a natural platform from which change can be driven. As chair of the local Criminal Justice Board, PCC Bourne has been in a position to coordinate multiple agencies, align their interests and gain consent for drawing up a business plan. "At first there was caution," she notes, "now the project is generating enthusiasm."

The scale of the project means that the savings potential is significant. The partnership estimates that Virtual Courts could reduce the average stay in custody for defendants by five hours, release 18 per cent of the magistrates' court estate, and deliver a 43 per cent reduction in ineffective trials. If all goes to plan, the net savings across all agencies will be in the region of £27 million. Moreover, the industrialisation of VEJ ensures that falling short of targets will not have a fatal impact on the economic case – the volumes processed by

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Sussex Police, 'Sussex and Surrey Police given Extra Funding for New UAV Technology,' Press release, (March 26, 2015).

the pilot will mean the initial cost of capital will be proportionately small when compared to operating costs. Just a 50 per cent uptake of virtual-remand courts would still see net savings of roughly £10 million.¹⁷

The technological challenge of implementing VEJ will also be tackled head on. The partnership has invested in a system they hope will be reactive, real-time capable, and a single point of contact for video end users. Nearly 14,000 agents are expected to operate on the scheduling system every day, with responsibility for management of proceedings given to a 'VEJ Director'. Much like producers in a TV news studio, they will ensure end users are comfortable, reassured about the process and ready to participate when a free slot in the scheduling system emerges.

The future of VEJ

The use of virtual courts will not be appropriate in all instances. Despite the proliferation of video calling services in recent years, people continue to travel thousands of miles to have face-to-face meetings. Personal chemistry is important: when there is reason to question testimony, judges may quite rightly want to see the whites of the eyes of a witness or defendant. To this extent, the criminals of the future will not exclusively await their final sentence in a virtual waiting room. However concerns that VEJ might detract from “the gravitas and solemnity of court” should not be overplayed.¹⁸ The use of video technology can drive out court inefficiencies. More importantly, reform has the potential to improve the experience of victims, witnesses and defendants.

Indeed, the potential to innovate further is substantial as long as reform is incremental. “You have to start small, prove the concept, and then scale up,” notes PCC Bourne. Taking the Sussex model nationwide would be an obvious next move, as would the extension to civil, crown and coronial courts. The technical challenges of running one scheduling system covering this remit would be significant, but the opportunities would be even greater. At present, the economic case for running one court throughout the night in the South East is borderline, but at a UK-wide level the demand would be there. Ultimately, the increased volume would create the opportunity to allocate resources even more effectively.

However VEJ is just the tip of the digitisation iceberg. Predictive analytics to prevent crime, digitising case files that stay with defendants all the way from police intervention to reintegration into the community, and video and mobile applications that help track and monitor crime data in real time – rolled out effectively, these initiatives have the potential to deliver a qualitatively different CJS. Vitally, Godwin argues, “we need to begin conversations about reform today, not at some undefined point in the future.” If the UK justice system is to maintain its status as a world-leader, the only option is to embrace opportunities such as VEJ.

¹⁷ Accenture and Sussex Police and Crime Commissioner, unpublished research.

¹⁸ The Rt Hon Sir Brian Leveson, *Review of Efficiency in Criminal Proceedings*.

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