



JUSTICE Press Release

In the Dock: Reassessing the use of the dock in criminal trials

Yesterday (1 July) JUSTICE published its most recent report, which reviews the criminal dock and recommends its use is discontinued.

JUSTICE is concerned that the use of the dock impacts upon the defendant's right to a fair trial, in particular: effective participation in one's defence; preserving the presumption of innocence; and maintaining dignity in the administration of justice. These rights have long been protected by our domestic legal system, the European Convention on Human Rights and international human rights law.

The Lord Chief Justice of England and Wales, speaking at the launch yesterday, thanked JUSTICE for "raising the debate" saying he "warmly welcomed" the report:

"I express gratitude to JUSTICE for continuing to take up the points that we in the justice system have taken for granted.... We need to go back into the community and do justice locally. There is no way that we can do so with a big secure dock. The report forces us to ask do we need docks in every court? How [do] we marry security concerns with civil liberties concerns? [The report] is provocative and I have an open mind [about what the alternatives to the dock should be] and look forward to the debate."

Anthony Burton CBE, experienced criminal defence solicitor and JUSTICE Council member followed the Lord Chief Justice and spoke to the room of his concerns about the use of the dock in trials:

"The dock marginalises the defendant. As a practitioner it becomes absurd trying to communicate with a client in the secure dock. There are so many occasions during trial where the client wants to say something and struggles to get their lawyers' attention. There is a compelling need for greater engagement of defendants with their own trial. The dock is undignified. I propose this relic be confined to a museum."

81 per cent of courtrooms in England and Wales have either a secure or open dock in which a defendant must be enclosed for the duration of the trial. Almost all defendants remanded in custody are seated in a secure dock – which is a floor to ceiling enclosure of wood and glass panels.

Notably, a number of other jurisdictions, including those that share our common law heritage, have abandoned the use of the dock, explicitly recognising its adverse impact on the defendant's right to a fair trial. While there may be genuine concern that a defendant could try to escape, or violence may occur in the courtroom, there is little evidence that such incidents are anything but rare. Moreover, other jurisdictions offer useful examples of discreet and humane alternatives to the dock, which are used on a case-by-case basis.

The established use of docks was not cemented until as late as the 1970s, when the Howard League and Law Society raised similar concerns to JUSTICE. The secure dock now in use did

not arrive until 2000. Even today, there is no statutory or judicial requirement to place a defendant in the dock. It is therefore at the discretion of the courts that this practice continues.

Andrea Coomber, director of JUSTICE, said:

“In light of our legal obligations to secure the right to a fair trial in practice JUSTICE calls for reconsideration of the use of the dock in our criminal courts. At a time when HM Courts and Tribunals Service is reviewing the use of its estate, attention should be given to how our courtrooms are designed, by reference to actual need, rather than purely tradition.”

Notes for editors:

- The Report was launched at a reception hosted by Dechert LLP in London, at which the Lord Chief Justice of England and Wales gave an address, followed by Anthony Burton CBE.
- The Report is available on the [JUSTICE website](#) and hard copies are available on request.
- The Report’s recommendations are:
 1. There should be a presumption that all defendants sit in the well of the court, behind or close to their advocate;
 2. Open docks should no longer be used and defendants should sit with their legal team;
 3. Where security concerns exist, a procedural hearing should be held to satisfy the court that additional security is required;
 4. In cases where there is no security risk, defendants should also sit with their legal team;
 5. We invite the Lord Chief Justice to consider issuing a practice direction with regard to the above recommendations;
 6. We invite HM Courts and Tribunal Service, the Ministry of Justice and other appropriate agencies to explore alternative security measures to the dock, mindful of the need for such measures to be concealed from the judge/jury and comfortable for the defendant; and
 7. We invite the Ministry of Justice and other relevant agencies to review prisoner escort custody contracts to ensure appropriate security can be supplied to the courtroom.
- Picture of a typical secure dock in a courtroom in the United Kingdom

