

The Abolition of Jury Trials



Trial by jury is more than an instrument of justice and more than one wheel of the constitution: it is the lamp that shows that freedom lives.

— Lord Devlin

Zoe Betts, Valerie Charbit, Mark Balysz KC and James Maxwell-Scott KC discuss the implications for organisations, individuals and practitioners of the proposed restrictions on jury trials. What will be the impact on our practice area and how can we prepare for it?

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Jury Reform & Health and Safety Prosecutions

Impact, Implications and the Future of Workplace Safety Justice

Courts and Tribunals Bill 2026 — Key Proposals (Introduced 25 Feb 2026 · Committee Stage)

Remove right to elect jury trial

Defendants charged with 'either-way' offences will no longer be able to choose Crown Court trial — the court alone will decide the forum.

Judge-only for complex/lengthy cases

Crown Court judges gain a new power to order judge-only trial for cases that are particularly complex or lengthy.

New Crown Court Bench Division

Judge-only trials introduced for either-way offences where the likely custodial sentence is assessed at up to 3 years.

Status & controversy

Bill passed 2nd Reading 10 Mar 2026 (304–203). 3,200+ lawyers oppose it. Still subject to amendment in committee.

Courts and Tribunals Bill 2026

What Changes

- Defendants lose right to elect jury trial
- Judge-only trials for either-way offences
- Custodial tariff threshold: up to 3 years
- New Crown Court Bench Division
- Judges can order judge-only in complex cases
- CM/GNM: jury trial unchanged

Status

- Introduced: 25 February 2026
- 2nd Reading passed: 304–203
- 101 Labour abstentions
- Now at Report Stage

Opposition

- 3,200+ lawyers write to PM
- Bar Council and Law Society opposed
- Former CPS heads and retired judges
- "Unpopular, untested, poorly evidenced"

The Case Against Abolition

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- Jury = citizen's shield against the state
- Ancient right — Magna Carta 1215
- Backlog is a resource problem, not a rights problem

- State regulator + state judge = no independence
- Jury nullification: democratic safety valve
- Public confidence requires visible fairness

Can Objection to Abolition be Justified in H&S Cases?

Technical Complexity

- Risk assessments, industry standards and guidance
- Competing expert evidence
- Dense regulatory frameworks

Document Overload

- Thousands of pages per trial
- Method statements, risk assessments, emails
- Juries absorb in weeks; judges in days

Inconsistent Verdicts

- Unreasoned and unreviewable
- Identical facts, different outcomes
- Undermines regulatory deterrence

THE ANOMALY — Other regulators impose huge penalties without a jury. Why not H&S?

FCA (formerly FSA)

FSMA 2000

- Unlimited fines — no jury
- Barclays, HSBC, RBS: nine-figure penalties
- Internal tribunal — appealed, not tried

Information Commissioner (ICO)

UK GDPR / DPA 2018

- Fines up to £17.5m or 4% turnover
- BA, Marriott, Met Police all fined
- No criminal prosecution. No jury.

Impact on Practice (1): The Advocacy Shift

The skills premium is shifting — jury craft ↓ technical rigour ↑

Under Pressure

- Jury narrative & storytelling
- Reading and managing a jury
- Controlled emotion in the courtroom
- Defendant sympathy appeals
- Lay-friendly expert presentation

Rising in Value

- Forensic technical advocacy
- Written skeleton arguments
- Expert cross-examination in depth
- Regulatory framework mastery
- Pre-trial legal submissions

Impact on Practice (2): Solicitors

Paradox: solicitors become more central as the centre of gravity shifts to pre-trial

What Changes

- Case won or lost before trial begins
- Disclosure battles now decisive
- Written argument > oral performance
- Technical specialism essential
- Generalists under pressure

New Opportunities

- Solicitor-advocates can displace the Bar
- Deep technical knowledge rewarded
- HSE interview advice even more critical
- Early fine modelling under 2015 Guidelines
- Expert selection and preparation

The Fusion Question

- Does the Bar retain its Crown Court role?
- Solicitor-advocates already in the detail
- Judge-only = less need for jury performers
- Two professions — one skill set?
- Commercial pressure accelerates change

Impact on Practice (3): The Plea Calculus

No jury sympathy = a different cost-benefit calculation for everyone

Defence

- Jury sympathy option disappears
- Earlier guilty pleas more rational
- Fine now more predictable — model it early
- Crown Court election no longer a tactic
- Advise on risk from first HSE contact

Prosecution / HSE

- Marginal cases now worth pursuing
- Regulator's hand stronger in negotiation
- Consistent sentencing = greater certainty
- Technical breach cases more viable
- Pre-charge leverage significantly increases

Impact on Practice (4): Two-Track & Access to Justice

The Two-Track Problem

- CM/GNM: mandatory jury trial remains
- HSWA offences no jury trial, unless on manslaughter indictment
- Where will the advocates of the future develop skills of jury narrative AND H&S expertise

Access to Justice

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| <ul style="list-style-type: none">■ Generalist firms feel the pressure■ Specialist vs generalist gap widens■ Technical demands increase costs | <ul style="list-style-type: none">■ Directors, managers, sole traders at risk■ No matching increase in legal aid rates■ Quality representation = corporate privilege? |
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Key Takeaways

Skills premium shifts

Technical depth and written rigour replace jury craft

Solicitors more powerful

Pre-trial becomes the decisive battleground

Plea calculus changes

No jury sympathy — earlier pleas, stronger HSE hand

Two-track demands more

How will future advocates hone their skills?

Access to justice at risk

Reforms may price individual defendants out of quality advice if not insured