

# CRIMINAL COURT RECOVERY MODELLING



September 2022

## Introduction

This paper sets out revised modelling in support of the criminal court recovery programme. In response to the impact of the COVID pandemic on criminal case backlogs, and increasing solemn business levels, the criminal court recovery programme commenced in September 2021, expanding the use of remote jury centres for solemn trials and introducing additional summary trial courts. The programme increased trial capacity through:

- 4 additional High Courts
- 2 additional Sheriff Solemn courts
- 10 additional Sheriff Summary Courts

To ensure that the recovery programme is having the desired effect we need to predict what its impact will be on case levels and waiting times and then measure the actual effect of the programme against those predictions. Through a combination of the modelling analysis and the publication of monthly criminal case throughput reports this allows us to measure the impact, illustrate the progress made and adjust the recovery programme to meet the challenges still ahead.

The additional trial courts, combined with excellent levels of collaboration across justice organisations, the legal profession and the 3<sup>rd</sup> sector, have increased trial capacity and case conclusion to above pre-COVID levels. The number of scheduled trials peaked at just over 43,600 and during the first year of the recovery programme this has reduced by 8,900, with 34,734 trials scheduled at September 2022. The overall aim of the criminal court recovery programme is to return the number of scheduled trials to around 20,000, which reflects the timescales and system capacity required to ensure that cases are properly prepared for trial.

This updated modelling report follows extensive analysis of the recovery programme, reflecting both the impact of COVID-related backlogs and a continued increasing trend in solemn business. This trend was evident pre-COVID and has continued throughout, where the increased level of petitions

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will be reflected through higher levels of indictments in the coming years. As a result the trial baseline has been revised to include the trend of non-COVID related indictment increases.

While modelling is not an exact science, it helps assess different scenarios and inform future decisions. The updated modelling indicates that the summary court backlogs will be cleared by March 2024 as planned, enabling the 10 additional summary trial courts to be scaled back from March 2023. Solemn business is more challenging given the continued increase in business levels. However by switching resources from the 10 additional summary trials to solemn trials (an additional 2 high court and 6 sheriff solemn courts), High Court cases are projected to reach the revised baseline by March 2025 and Sheriff Solemn by March 2026.

Switching resources between summary and solemn is not straightforward. It is less about physical court capacity and more about the people capacity across the wider justice system, requiring careful planning and collaboration.

Discussions are currently taking place through the Criminal Justice Board and with the Faculty of Advocates and Law Society of Scotland who have shared concerns on the pressures being faced by the legal professional and the challenges that an increased level of solemn trial capacity may bring for the profession.

The modelling reports help inform these discussions, underlining the commitment and collaboration of everyone in the justice system to reduce court backlogs and the length of time which it takes for cases to come to trial.

Scottish Courts and Tribunal Service  
September 2022

## High Court Trial modelling

Increased indictments for 2 years, with revised baseline including the continued trend in indictment levels.  
Updated to reflect a further 2 trial courts from April 2023

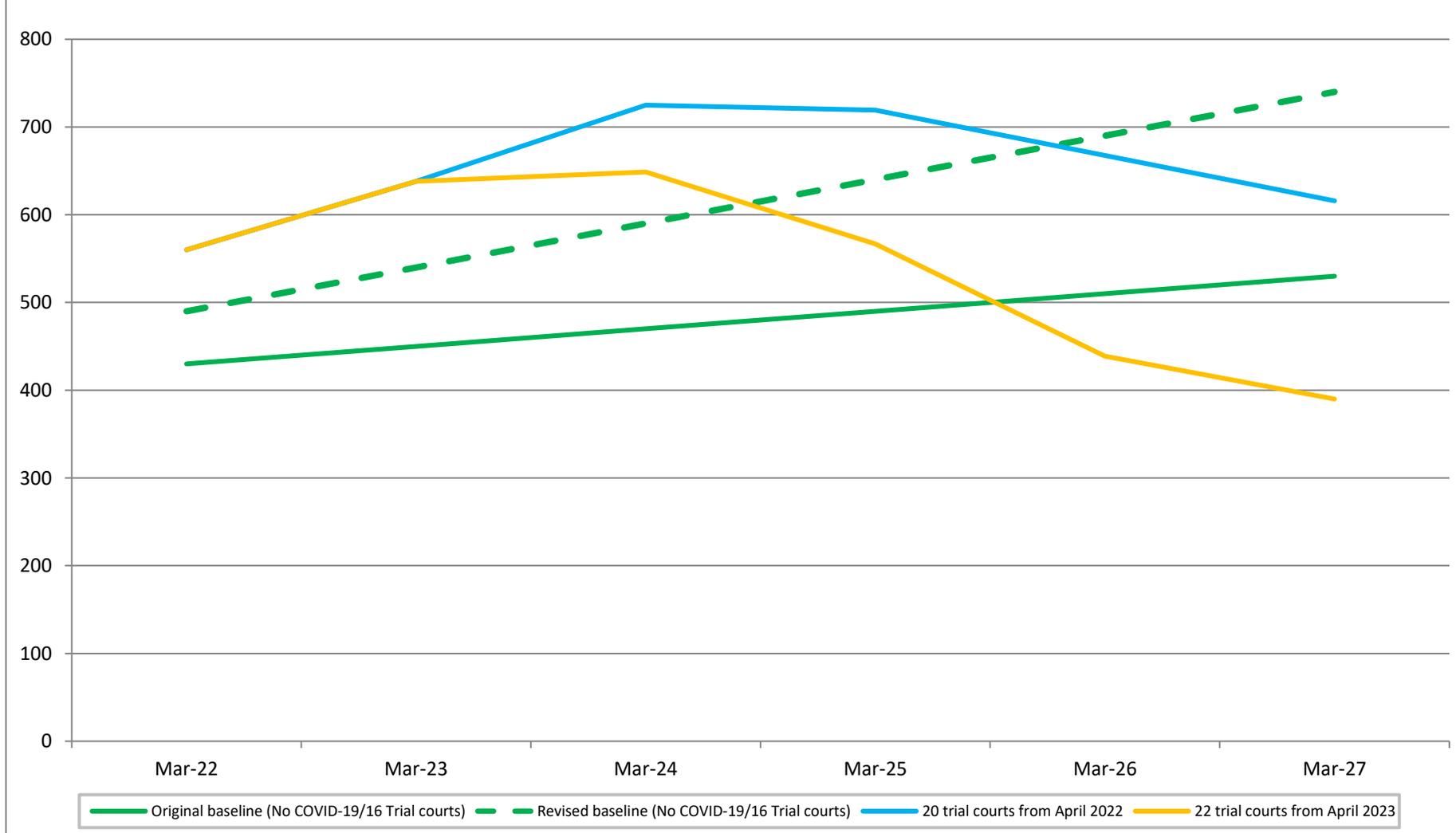
High Court - Jury Centres 100 Indictments Registered per month from August 2022 for 24 months then 85 per month thereafter	Projected Scheduled Trials as at the end of					
	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
Original baseline (No COVID /16 Trial courts)	430	450	470	490	510	530
Revised baseline (No COVID /16 Trial courts)	490	540	590	640	690	740
20 trial courts from April 2022	560	638	725	719	668	616
22 trial courts from April 2023	560	638	649	567	439	390

High Court - Jury Centres 100 Indictments Registered per month from August 2022 for 24 months then 85 per month thereafter	Projected Ave weeks to Evidence led trial as at the end of					
	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
Original baseline (No COVID /16 Trial courts)	26	27	28	30	31	32
Revised baseline (No COVID /16 Trial courts)	30	33	36	39	42	45
20 trial courts from April 2022	48	55	62	62	57	53
22 trial courts from April 2023	48	55	56	49	38	27

Average weeks to Evidence Led Trial is 'Average weeks from Pleading Diet to Evidence Led Trial where ELT occurs in month shown'

# High Court - Projected Scheduled Trials

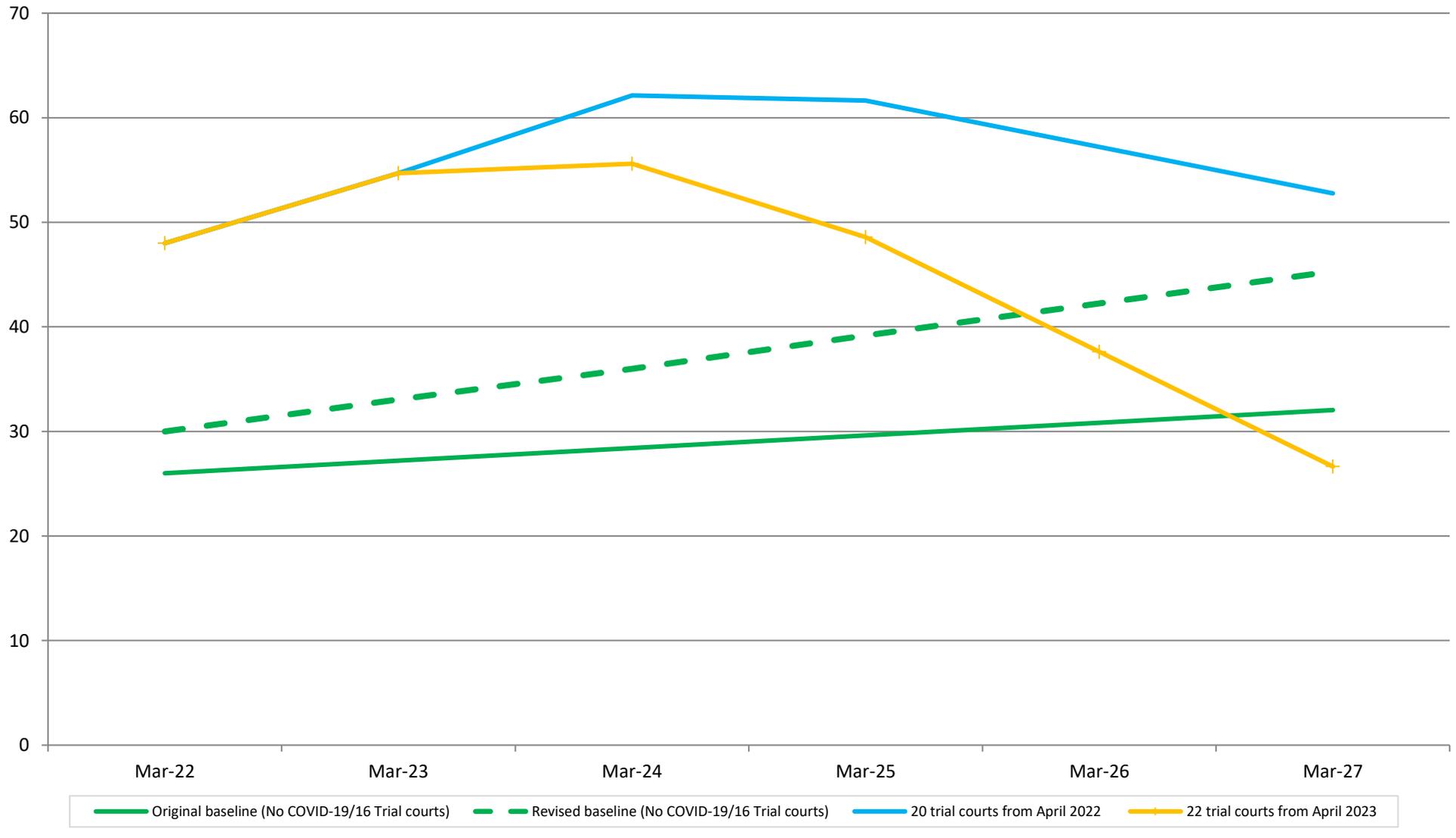
100 Indictments Registered per month from August 2022 for 24 months then 85 per month



# High Court - Jury Centres - Projected Average weeks to Evidence Led Trial

100 Indictments Registered per month from August 2022 for 24 months then 85 per month

Average weeks to Evidence Led Trial is 'Average weeks from Pleading Diet to Evidence Led Tri



## Sheriff Court Solemn Trial modelling

Increased indictments for 3 years, with revised baseline including the continued trend in indictment levels.  
Updated to reflect a further 6 trial courts from April 2023

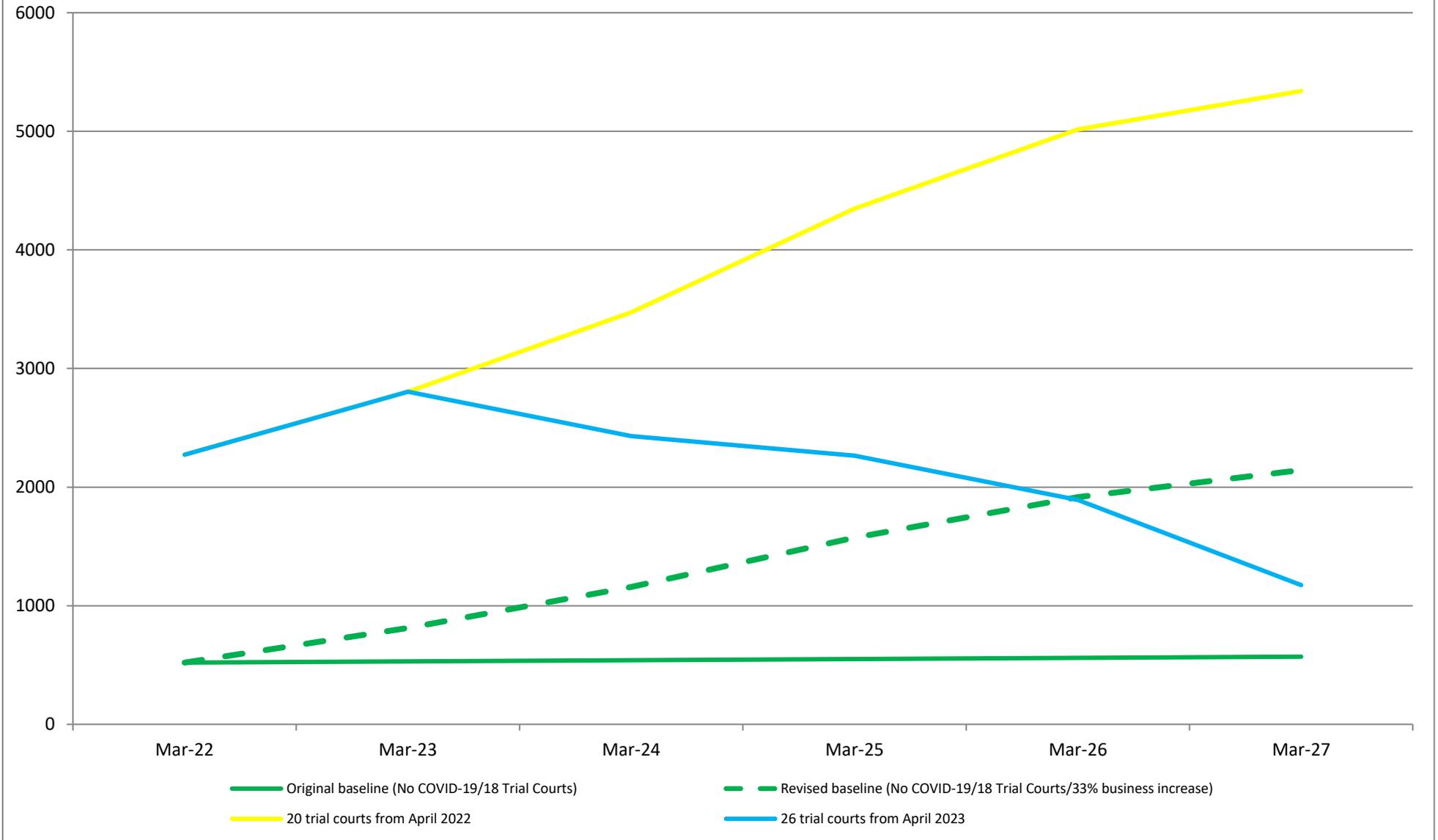
<u>Sheriff Court Solemn</u>	Projected Scheduled Trials as at the end of					
Rising 3 year Indictments then gradual reduction (22/23 - 580, 23/24 - 600, 24/25 -630, 25/26 - 600, 26/27 -550)	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
Original baseline (No COVID /18 Trial Courts)	520	530	540	550	560	570
Revised baseline (No COVID /18 Trial Courts)	520	812	1158	1574	1916	2144
20 trial courts from April 2022	2274	2804	3473	4349	5017	5340
26 trial courts from April 2023	2274	2804	2431	2265	1892	1174

<u>Sheriff Court Solemn</u>	Projected Average weeks to Evidence Led Trial as at the end of					
Rising 3 year Indictments then gradual reduction (22/23 - 580, 23/24 - 600, 24/25 -630, 25/26 - 600, 26/27 -550)	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
Baseline (No COVID /18 Trial courts)	11	11	11	11	11	12
Revised baseline (No COVID /18 Trial Courts)	11	17	24	33	41	45
20 trial courts from April 2022	45	55	69	86	99	106
26 trial courts from April 2023	45	55	48	45	37	23

Average weeks to Evidence Led Trial is 'Average weeks from Pleading Diet to Evidence Led Trial where ELT occurs in month shown'

# Sheriff Court Solemn - Projected Scheduled Trials

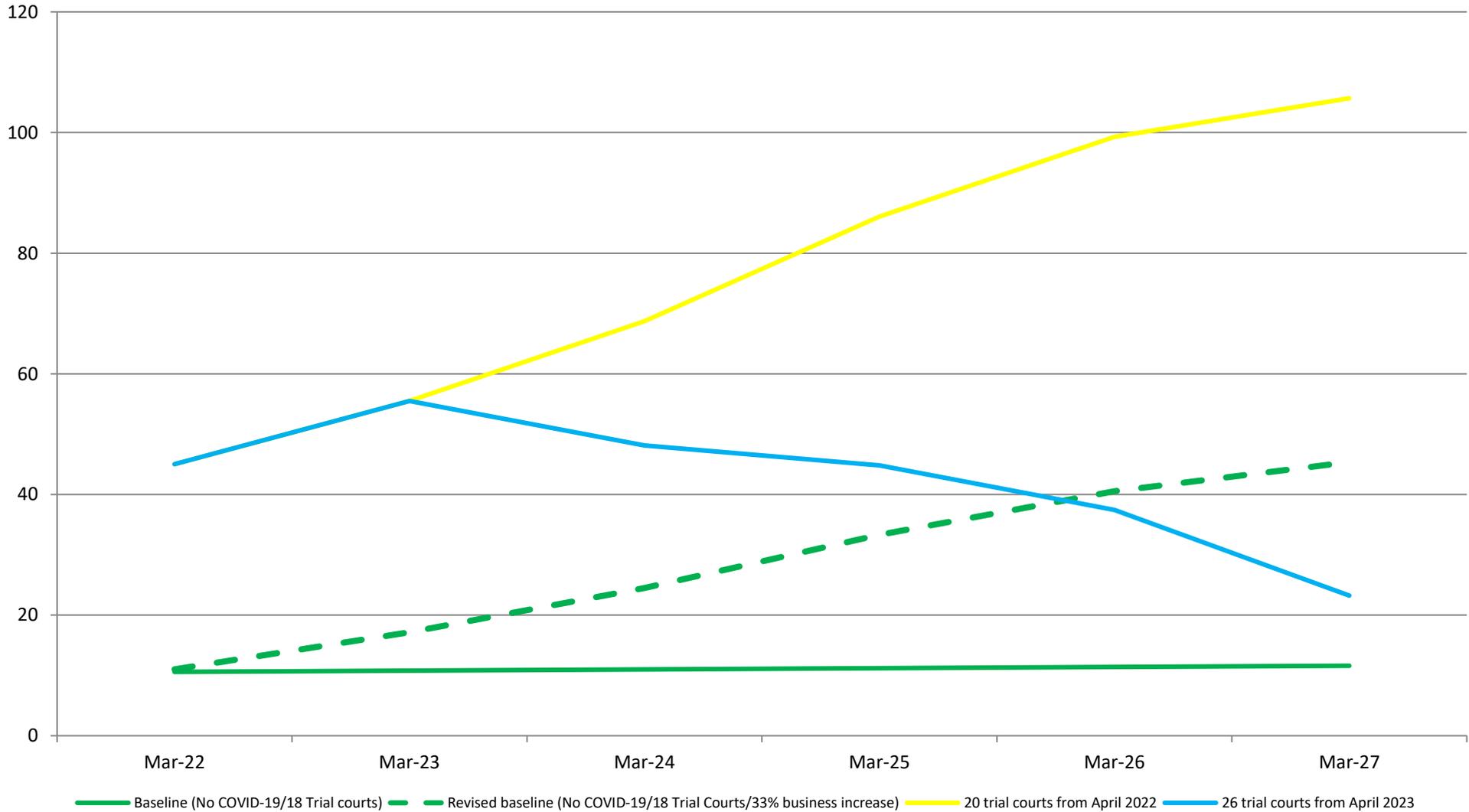
Rising 3 year Indictments then reducing



# Sheriff Court Solemn - Projected Average weeks to Evidence Led Trial

## Rising 3 year Indictments then reducing

Average weeks to Evidence Led Trial is 'Average weeks from Pleading Diet to Evidence Led Trial in period'



## Sheriff Court Summary Trial modelling

Updated to reflect the removal of 10 recovery trial courts from April 2023

<b>Sheriff Court Summary</b>	Projected Scheduled Trials as at the end of					
	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
5000 Complaints Registered per month						
Baseline (No COVID / 33 Trial courts)	14000	14000	14000	14000	14000	14000
43 Trial courts from April 2022	30520	18566	14000	14000	14000	14000
33 Trial courts from April 2023	30520	18566	14137	14000	14000	14000

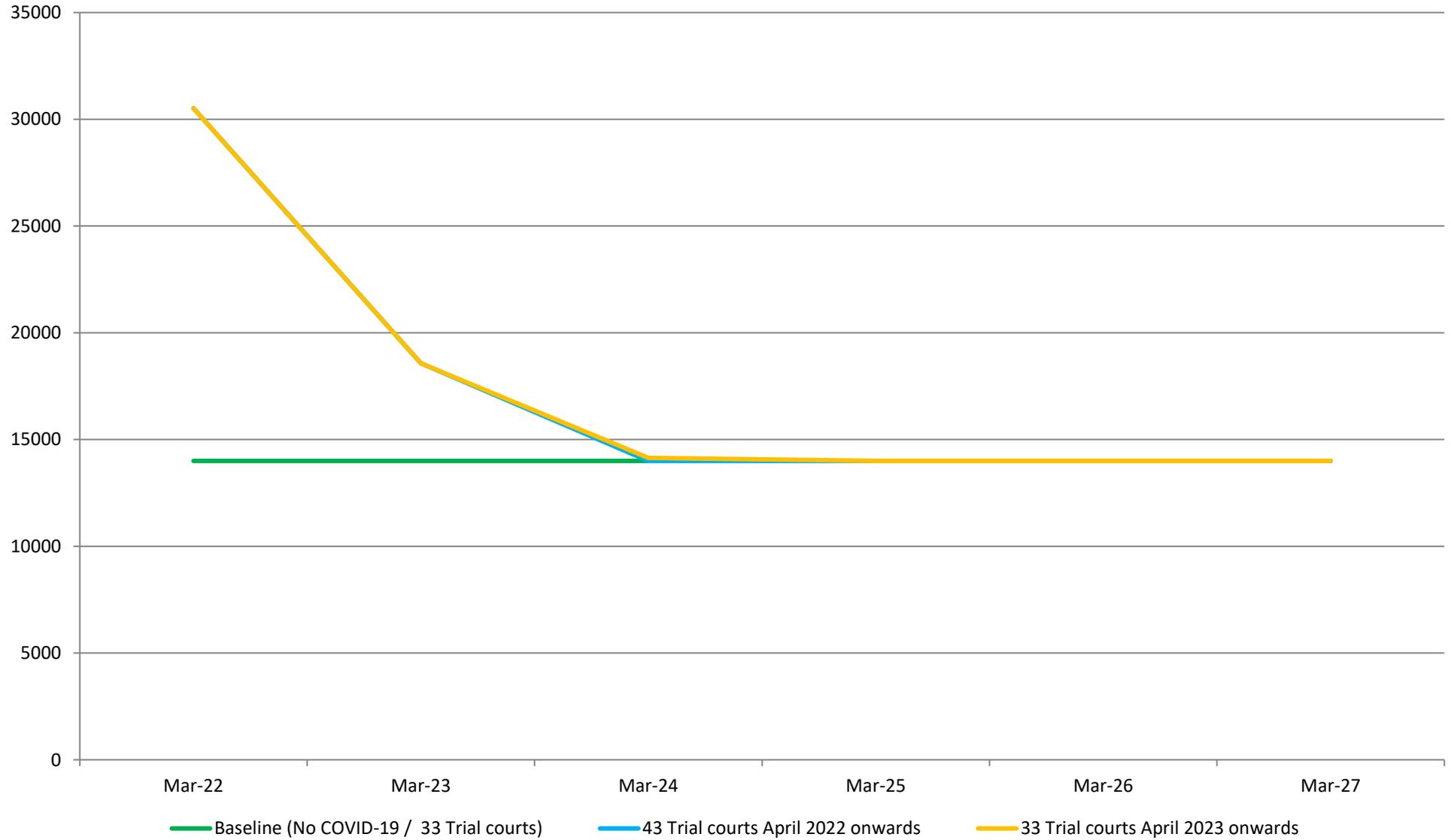
<b>Sheriff Court Summary</b>	Projected First Available Trial Date as at the end of					
	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
5000 Complaints Registered per month						
Baseline (No COVID / 33 Trial courts)	13	13	13	13	13	13
43 Trial courts from April 2022	16	13	13	13	13	13
33 Trial courts from April 2023	16	13	13	13	13	13

<b>Sheriff Court Summary</b>	Projected Average weeks to Evidence Led Trial as at the end of					
	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
5000 Complaints Registered per month						
Baseline (No COVID / 33 Trial courts)	23	23	23	23	23	23
43 Trial courts from April 2022	50	30	23	23	23	23
33 Trial courts from April 2023	50	30	23	23	23	23

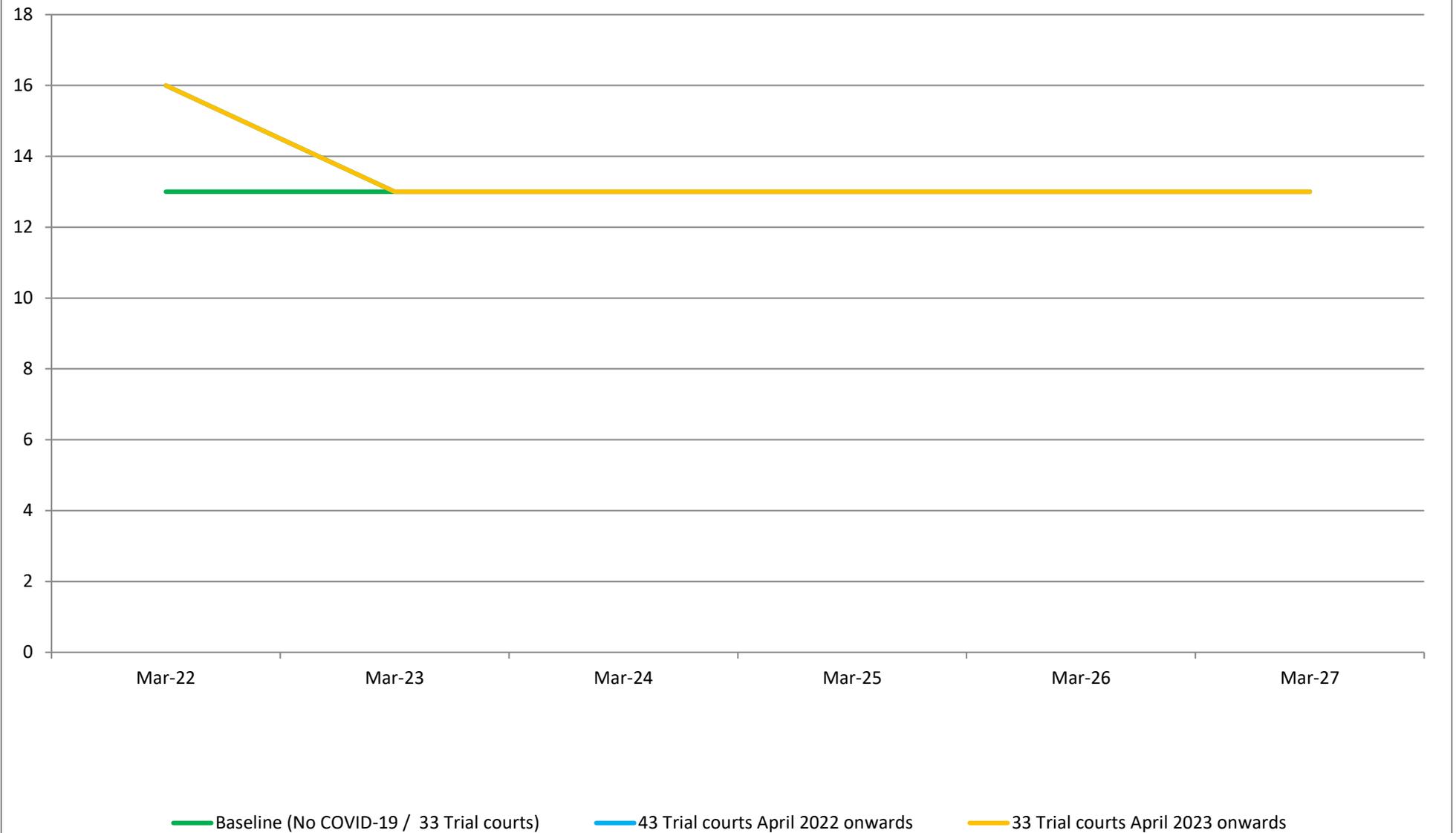
First Available Trial Date is 'Earliest trial diet available in court programme following a 'not guilty' plea'

Average weeks to Evidence Led Trial is 'Average weeks from Pleading Diet to Evidence Led Trial where ELT occurs in month shown'

### Sheriff Court Summary - Projected Scheduled Trials 5000 complaints registered per month

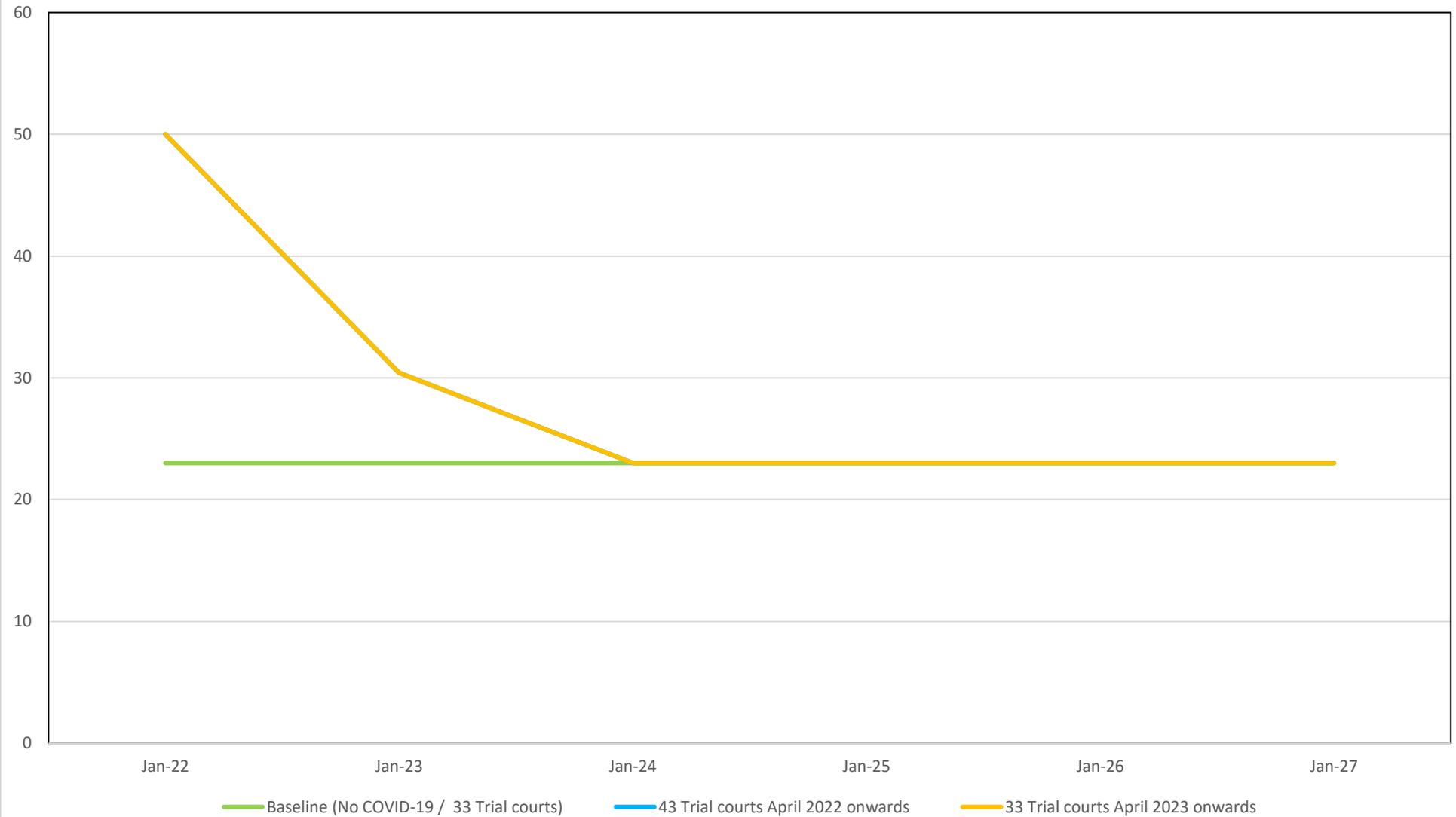


## Sheriff Court Summary - Projected First Available Trial Date 5000 complaints registered per month



## Sheriff Court Summary - Projected Average weeks to Evidence Led Trial 5000 complaints registered per month

Average weeks to Evidence Led Trial is 'Average weeks from Pleading Diet to Evidence Led Trial where ELT occurs in month shown'



## Justice of the Peace (JP) Court Trial modelling

Update based on continuing with 8 trial courts

<u>JP Court</u>	Projected Scheduled Trials as at the end of					
	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
Baseline (No COVID / 8 Trial courts)	3500	3500	3500	3500	3500	3500
2500 complaints per month	7569	5199	3500	3500	3500	3500

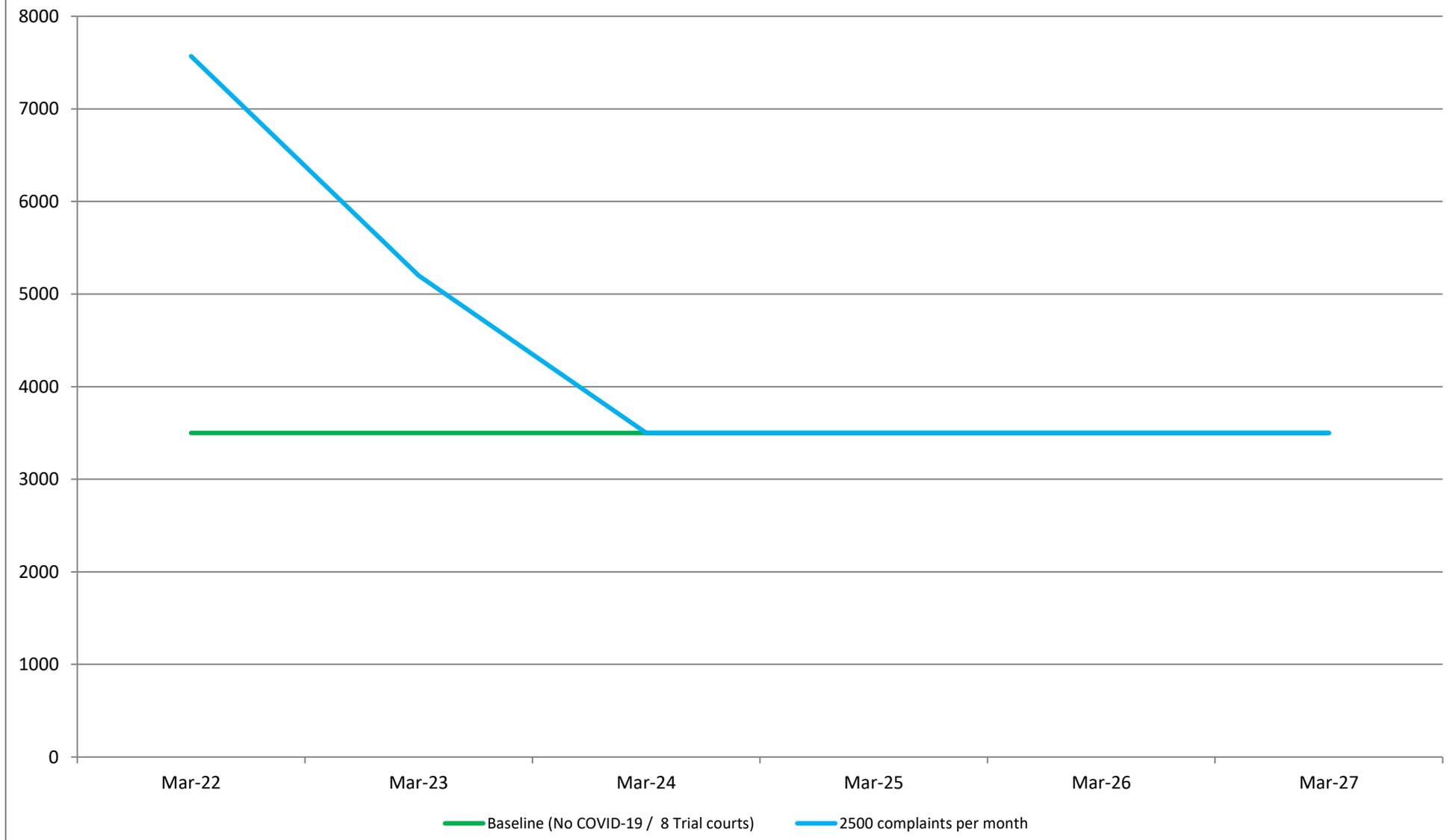
<u>JP Court</u>	Projected First Available Trial Date as at the end of					
	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
Baseline (No COVID / 8 Trial courts)	12	12	12	12	12	12
2500 complaints per month	20	14	12	12	12	12

<u>JP Court</u>	Projected Average weeks to Evidence Led Trial as at the end of					
	Mar-22	Mar-23	Mar-24	Mar-25	Mar-26	Mar-27
Baseline (No COVID / 8 Trial courts)	22	22	22	22	22	22
2500 complaints per month	54	37	22	22	22	22

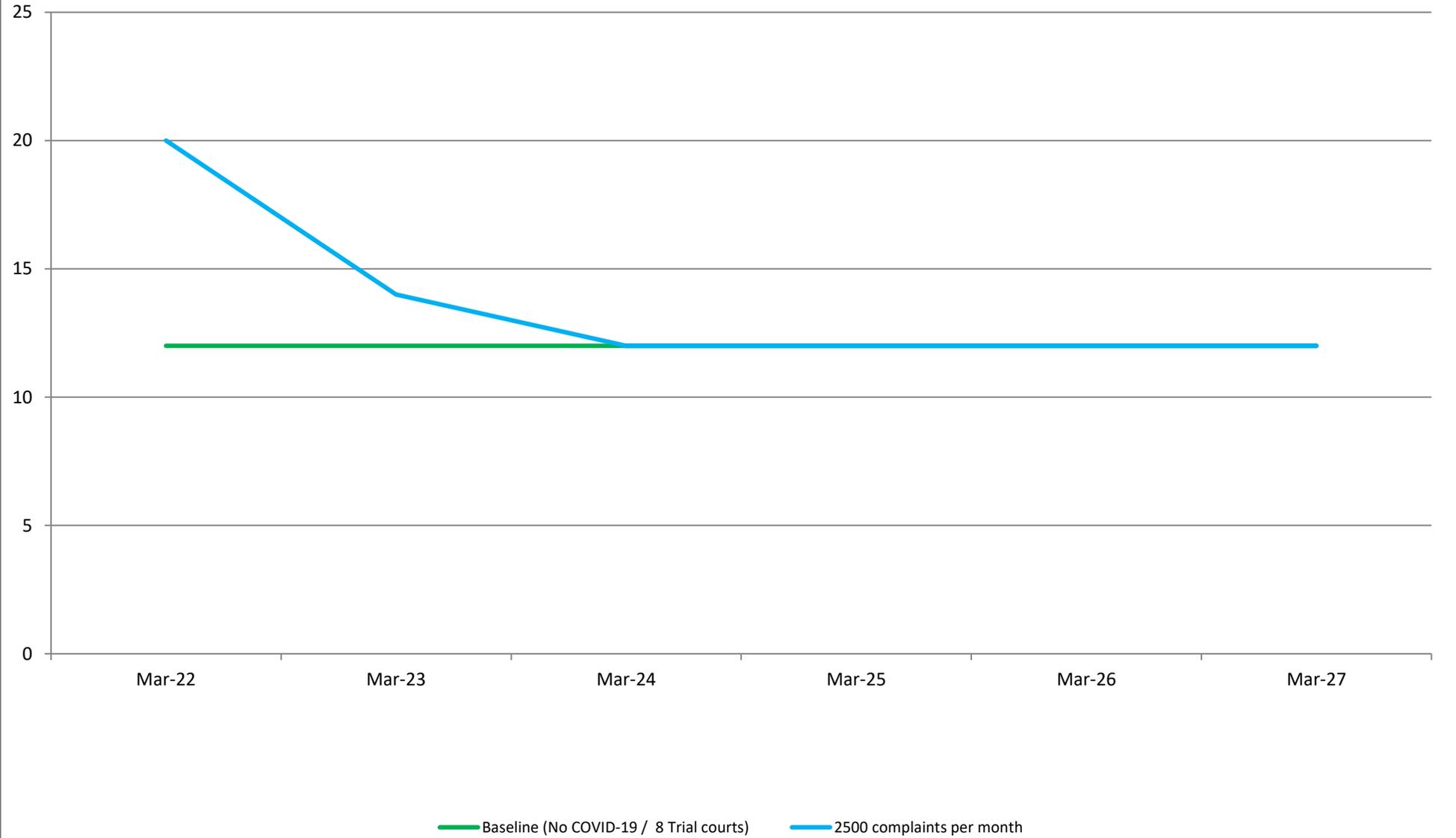
First Available Trial Date is 'Earliest trial diet available in court programme following a 'not guilty' plea'

Average weeks to Evidence Led Trial is 'Average weeks from Pleading Diet to Evidence Led Trial where ELT occurs in month shown'

### JP Court - Projected Scheduled Trials 8 trial courts

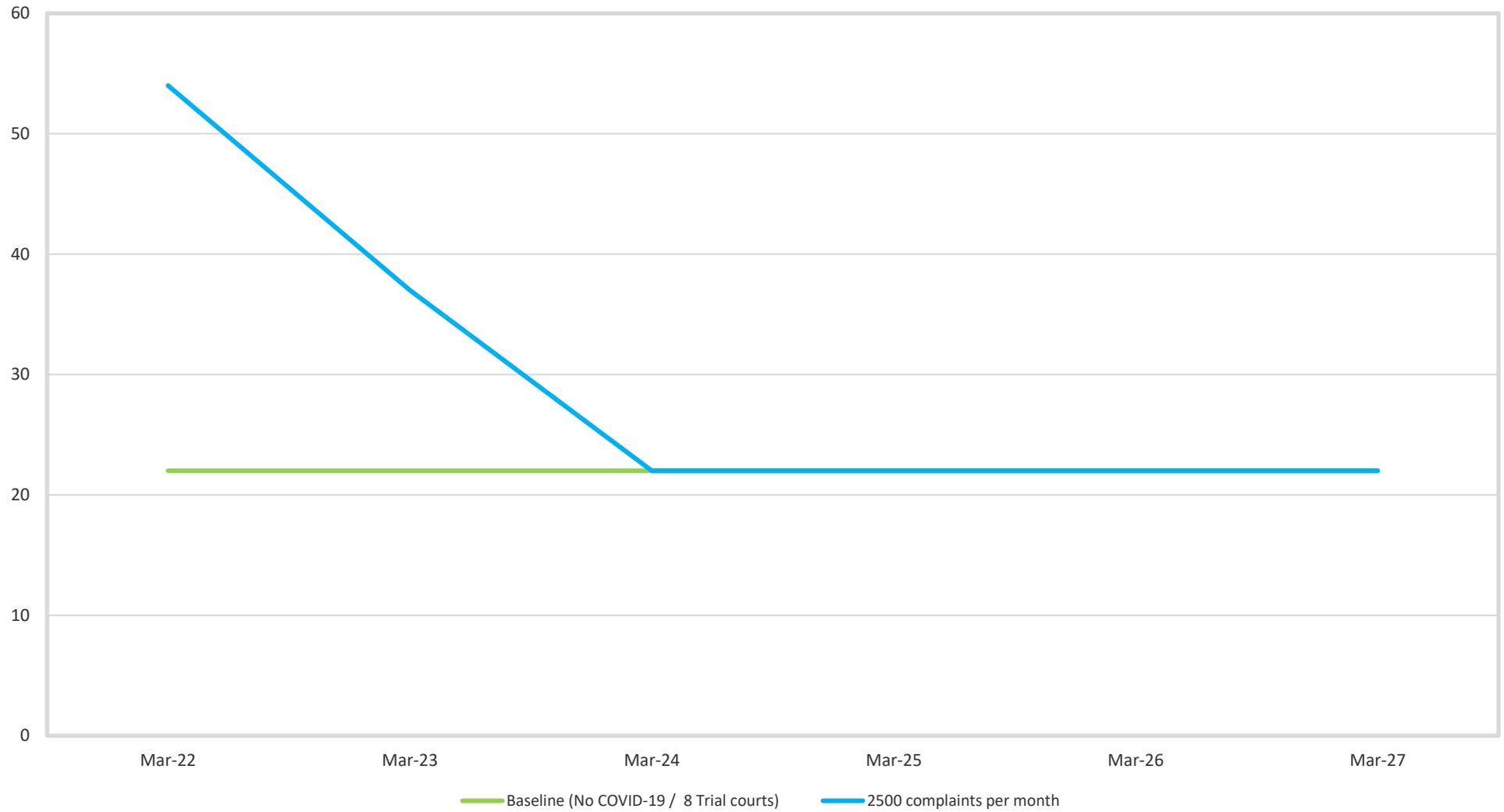


### JP Court - Projected First Available Trial Date 8 trial courts



# JP Court - Projected Average weeks to Evidence Led Trial 8 trial courts

Average weeks to Evidence Led Trial is 'Average weeks from Pleading Diet to Evidence Led Trial where ELT occurs in month shown'



## Modelling Assumptions

Metrics	High Court	Sheriff Court Solemn	Sheriff Court Summary	Justice of the Peace Court
Scheduled Trials (pre COVID)	390	500	14000	3500
Average weeks to Evidence Led Trial (pre COVID)	22	11	23	22
Trial courtrooms (pre COVID)	16	18	33	8
Average length of Evidence Led trial	6 days	3 days	2 hours 40 minutes	40 minutes
Conversion rate of Trials Called to Registrations	80%	71%	62%	30%
Conversion rate of Evidence Led Trials to Trials Called	62%	36%	17%	15%

### Projected scheduled trials methodology

Scheduled trials as at last data point plus estimated new trials fixed per month minus trials concluded per month.

### Projected delay periods methodology

Delay as at last data point divided by scheduled trials at last data point multiplied by projected scheduled trials.

### Future levels of solemn business

High Court – indictments registered have been at a lower rate than pre COVID. As a result COPFS forecast that the level of indictments registered could increase from 85 per month to 100 per months for a period of two years.

Sheriff Solemn - indictments registered have been at a lower rate than pre COVID, while petitions registered continued to increase following the pre-COVID trend. COPFS forecast that the level of indictments registered could increase from 450 per month to over 600 per months for a period of three years, followed by a gradual reduction. Approximately one-third of the increased indictments are estimated to be part of the continued increasing trend in solemn business.

### Revised baselines

When the modelling work commenced, baselines were introduced to reflect a situation that assumed the pandemic had not happened and that the number of trial courts was unchanged. The baselines provide a useful comparator within the models that aids understanding and helps to quantify recovery.

For summary business, flat baselines were established and these have proven useful in measuring recovery as case levels have remained relatively stable.

For solemn business, the trend of increasing indictments that was evident pre COVID has continued with the increased levels of petitions reflected through higher levels of indictments in the coming years. As a result the trial baseline has been revised to include the trend of non-COVID related indictment increases.

### Time Periods to Trial Diets

In a complex justice system multiple system factors impact on the time to trial, including; case preparation, availability of forensic evidence, disclosure, witness availability, failure to appear, parties not ready to proceed, lack of court time. These factors create non linearity, which requires further analysis to understand and quantify the modelling complexities.

The modelling currently assumes a linear relationship between number of trials forecast and the time to trial, with an estimate of factors built in. Therefore some caution is advised when using the time to trial projections. The actual average time between the pleading diet and completed evidence led trials is published monthly in the SCTS criminal case throughput report.