

# **Inner London Crown Court**

## **The Plan for Autumn to Winter 2020**

### **The Plan for Trials**

1. This document is intended to provide information for court users and other interested parties on the plan for an increase in jury trial provision at Inner London during the autumn of 2020. It must, of course, be subject to any change in Government guidance.
2. The headline is that we intend to list for 3 trial courts from mid-September and 5 trial courts from mid- October 2020. If it proves possible to bring that timetable forward, we will seek to do so. We are focussing on custody cases, in particular where custody time limits have been extended but are also alert to cases with, for example, young and/or vulnerable witnesses.
3. Inner London CC was a suspended site until 13<sup>th</sup> July 2020. We commenced one trial on 20 July 2020. Since 3 August 2020 we have been sitting 2 trial courts at 2m social distancing with the trial courts needing one additional courtroom to serve for jury retirement.
4. As of 14 September 2020 we will be running 4 trials each week. The third and fourth trials will require 3 courtrooms each, one to be used as a public gallery and the second for jury retirement, unless we are able to identify additional rooms which are suitable for jury deliberation. This is in hand.
5. We are currently able to hold two trials with one defendant and one trial of up to 3 defendants (in either Courts 3 & 4, depending on how many other trials are being held at the same time).
6. We expect to be able to utilise more courts for trials on a 1m+ basis. Measures will include the removal of fixed seating and provision of perspex screens. Our older courtrooms are listed and so this will only be an option in courts 5 to 10.
7. There are limitations on capacity for instance:
  - a. It will be better to keep footfall low and spread through the day;
  - b. The cells are presently limited to accommodating 10 produced prisoners per day although that is being reviewed. From 14 September the cells will be able to hold 20 adult male defendants and 5 female/young person defendants. They can have up to four professional visits at a time and this is now supplemented with a telephone conference facility. We expect to have a second landline installed in the cells area which will increase the telephone conferences available to 2;
  - c. The jury lounge area can currently accommodate around 20 persons at one time. With installation of Perspex we hope to accommodate up to 45;

- d. Socially distanced trials require higher staffing levels and, like any organisation during Covid 19, staffing is an issue.
8. For these reasons:
- a. We will need to explore staggered start times and lunch breaks for trials (perhaps ½ hour either way), and for serving jurors to be directed straight to jury rooms rather than remain in the lounge areas. We will seek the co-operation of advocates and others to achieve this.
  - b. Depending on the numbers of prisoners for trial it may be necessary to list a proportion of bail cases;
  - c. Anything you can do to ensure that the trial runs within time estimate will help everyone.
  - d. With multi-defendant trials we will explore the possibility that prisoners by consent attend the trial remotely (except when giving evidence) but this is dependent on increased video facilities in prisons;
  - e. Public gallery space will be limited, and users of the public galleries may be asked to wear masks in court.

## **Listing of trials**

9. Listing is ultimately a judicial function. The outstanding cases have been reviewed by the Resident Judge with the assistance of the listing officer and fellow judges, focussing first on those where defendants are in custody, and initially on those whose PTPH preceded the suspension of jury trials.
10. We have been listing cases for a PTR in respect of those cases which were not reached before and during the suspension of jury trials and where fixtures were broken.
11. At the hearing we seek the assistance of parties so that we can take account of any priority issues you wish to bring to our attention, availability of witnesses, defendant and advocates, special provisions required, and information about case readiness so that we can provide a fixture /warned list date accordingly. The timetable is short because the re-listing process is complex and we need that information to confirm listings so that everyone knows where they are. If we don't get it, we may not be able to hold the provisional date or allocate an early other date. We will ask parties to confirm an existing Certificate of Readiness or provide an updated one.
12. We will need to list so as to use the available trial courts as intensively as possible. It follows that your help in ensuring that trials are effective and ready will be more important than ever. We aim to give fixed dates or a warned list but that makes it doubly important that advocates focus on realistic time estimates and that the trial is conducted within them.
13. Based on the above, we have identified cases which can be listed at short notice if a listed trial is ineffective either because a defendant pleads guilty or there are unexpected issues which arise. We do not list 'back-up' trials (akin to floaters). However, if a trial is ineffective on the day it is listed the 'back-up' trial will be listed the next day. Our experience is that this method works well and avoids unnecessary footfall in the building.

14. In many instances we will list a PTR and we encourage personal attendance so that advocates are clear about the arrangements in court including how special measures are to be accomplished.
15. Please note that remote attendance by a witness to a trial requires an application under CrimPR 18 to be made by the calling party IN ADVANCE and for that to provide details of the proposed link and arrangements at the far end. Any application that a civilian witness give evidence from eg home requires careful consideration and a full application IN ADVANCE. It is for the party calling the witness to make those arrangements.
16. Advocates are required to attend trials in person unless a live link direction has been obtained in advance.
17. Inevitably we must prioritise cases where defendants are awaiting trials in custody. Most, if not all, bail cases have a trial listing and we are all too conscious how far into the future those extend. We intend to review those to see which can be brought forward. Parties are encouraged to contact the court to alert us to cases that they feel ought to be prioritised.

## **Personal Attendance at non trial hearings**

18. Particular difficulties arise if the defendant appears in person and the defence advocate appears remotely and we ask you to bear in mind that the court does not have facilities for video conferences between defendants present at court and advocates attending remotely, either before or after the sentence.
19. For remote hearings we acknowledge that the court systems have had to be improved but we are now finding that the majority of technical issues impacting on hearings are at the end of the advocates or interpreters and due either to issues with their computers or with their wifi. Please bear in mind:
  - a. Listing remote hearings (including any hearing when even one participant is appearing remotely) is more complex than hearings for personal attendance,
  - b. Where hearings are timetabled because at least one party is appearing remotely we lose any flexibility to cope with situations such as a defendant arriving late or the need to take further instructions. We do need to work to reliable time estimates and are reliant on proper pre-hearing engagement if this is to work.
  - c. We have noted that in cases with 4 or more defendants, remote attendance is of limited effectiveness and may list those for personal attendance by both prosecution and defence.
20. We have a protocol in place which is uploaded to every case on the DCS prior to PTPH and invite you to read the full document. A summary is set out below:
21. The default position for how parties appear in court, which is set out below, remains, as always, subject to any bespoke direction that a Judge gives for a particular hearing.

*Where an advocate is required to attend court but for Covid related reasons cannot, that advocate must make an application to attend remotely at least 48*

*hours before for the urgent attention of the listed Judge and copied to other parties. The application should contain enough information (there is no requirement for medical evidence) for the Judge to determine it using the interests of justice test.*

Interpreters will be at court if the advocates are at court, otherwise they will attend hearings by videolink.

## **HEARINGS UP TO TRIAL**

### **DEFENDANTS IN CUSTODY**

Will appear by PVL where their attendance is required.

Bail App: Advocates by videolink

PTPH: Def by PVL. Advocates to attend court *having already complied with their duty of engagement prior to the hearing*. Parties **MUST** comply with CrimPR 3.3, have considered the prospects of resolving the case **AND** fill the PTPH form out on the day before the hearing unless guilty pleas are anticipated.

Dismissal hearing: Advocates by videolink. Def by PVL (if required)

CTL applications: Advocates by videolink and Def by PVL unless he has waived his right to be present (if opposed – if unopposed and the protocol is followed this can dealt with administratively)

FCMH/PTR: Advocates remotely by videolink or telephone

Sentence: Def by PVL. Advocates to attend court

### **DEFENDANTS ON BAIL**

The general rule is that where a Defendant is required for the hearing they must attend in person at court, *and* the Advocates must also attend court.

Bail variation App: Advocates by videolink (unless dealt with administratively)

PTPH: Advocates to attend court *having already complied with their duty of engagement prior to the hearing – see above*. Def at court.

Dismissal hearing: Advocates and Defendant at court.

FCMH/PTR: Advocates remotely by videolink or telephone

Sentence: Advocates and Defendant at court.

## **Cells conferences**

22. Inner London cells can currently manage up to 2 face to face conferences at a time in socially distanced conditions. Two additional face to face conferences may be held with all persons wearing PPE.

23. In addition, a telephone conference facility (an additional one when the equipment is installed) is available to assist advocates in the building. Advocates should telephone the cells to ask if the phone is available and if so, the phone will be given to the prisoner and the advocate will be given the number to call. Please observe fair usage principles and two rules:

- a. Make the call from a place where you cannot be overheard;

- b. The facility is limited to professional legal advisers and you must not give the number (or lend your phone) to others such as family members to have a social call.

## **Video conferences with Prisoners**

24. HMP Thameside is in the process of increasing video capacity in prison which will become available in the New Year

## **Time Estimates**

25. Where even one of the participants is attending remotely the hearing has to be carefully timetabled. It follows that time estimates are more important than ever before. If unrealistic time estimates are given it may not be possible to complete the hearing, so we ask everyone to give careful thought to them and if the estimate needs to be revised to inform the court as soon as possible.

## **Notes on the DCS**

26. Please do not attach any comments or details to a judicial note. It would be very helpful if admin assistants such as clerks could be reminded of this too. Please try to remember to delete any notes which have become redundant (for example contact details for a previous hearing).

## **Section 28 pre-recorded cross-examination**

27. Court users will be aware that a commencement order was made on 24<sup>th</sup> August 2020 authorising the use of s.28 YJCEA in London Courts.
28. Qualifying cases are limited to cases where “the witness is eligible for assistance by virtue of section 16 of the Act (witnesses eligible for assistance on grounds of age or incapacity).”
29. We will expect the CPS to have identified relevant cases, made a s.28 application and uploaded the transcript of the relevant VRI in advance of the PTPH in compliance with the Crim PR. Parties are to have full instructions and be ready to assist the Judge at the PTPH with relevant directions in the PTPH form. It should be the normal rule for trial counsel to be instructed by the Crown in such PTPH’s.

We very much hope we can work positively with all court users in the coming months to achieve a smooth transition for a return to jury trials and increased capacity. We have, so far, managed to work through difficult times with your co-operation which is much appreciated. There remains a lot to do and challenging times ahead. We are always receptive to feedback and suggestions for more improvement and encourage it. The importance of working together cannot be underestimated.

Usha Karu  
Resident Judge  
Inner London Crown Court  
9 September 2020