



OFFICIAL

Memo

HM Courts &
Tribunals Service

Date: 24 August 2020

To:
Senior Presiding Judge
Deputy Senior Presiding Judge

cc:
Mr Justice Edis, Chair of the Jury Trial Working Group
Heads of Crime and Delivery Directors

From:
Helen Measures, Crime Service Owner, HMCTS

Subject: Supporting recovery in the Crown Court jurisdiction

Introduction

1. We discussed recently that it would be helpful were HMCTS to produce for the judiciary a document setting out all that is being done to support recovery in the Crown Court. This is it. As you know, in addition to the work of HMCTS, much of what has been achieved in recent months is the result of the contributions of a number of working groups including the jury trial working group, the multi hander working group and the Covid Operating Hours Working group. I hope you will find the document useful and will share this with RJJ and PJJ. I will ensure it reaches all Heads of Crime and Delivery Directors.
2. Significant progress has been made in the criminal courts since the start of the pandemic, with thousands of cases being dealt with each week, many of which using the Cloud Video Platform solution. Since May, when jury trials resumed, more than 690 jury trials have been listed and disposed of. This week jury trials are taking place in 66 Crown Court buildings and two Nightingale Court (Prospero House and Swansea Civic Centre). Where court rooms have not been suitable to hold jury trials, appeals, sentencing, confiscation and other work such as s.28 hearings, have continued to take place.
3. The full HMCTS criminal recovery plan is expected to be published shortly and will provide more detail on how we intend to increase capacity over the coming months. However, we recognise the need to share material on a range of matters dealt with by the Working Groups, and this note signposts all sources of information available to support and assist the judiciary for the purposes of listing trials.

Victims and Witnesses

4. There are a large number of outstanding trials which involve at least one vulnerable or intimidated witness. Applications for special measures have already been granted in many of those cases. Those special measures may need to be re-evaluated. Some courts may have been reconfigured in a way that makes a screen currently unworkable. Some witnesses may no longer wish to travel to court if public transport is necessary or childcare arrangements have changed. Arrangements should be made for ISVAs, IDVAs or other victim support workers to speak to

those witnesses to investigate any concerns and canvass possible changes. Efforts will continue to enable witnesses to give evidence in the courtroom with special measures.

5. The s.28 scheme is being extended and the interviewing of witnesses under s.28 is continuing. We are extending the availability of the technology to support s.28 and hope to complete the rollout of s.28 to all Crown Courts by the end of the year. Courtrooms that may not yet be able to accommodate trials could hear s.28 cases. Cases in which ABE interviews have already taken place may be suitable to be taken into the s.28 procedure. Work will be done to see how those cases can be identified and witnesses spoken to in order to establish their views. All parties would then be notified that the case has been taken into the s.28 scheme.

Youths

6. The Judicial Lead for Youth Justice, William Davis J, recently published a note on the allocation of youths jointly charged with adults. The interests of justice test should include consideration of the likely delay if the youth is sent to the Crown Court with an adult as opposed to remaining in the Youth Court.
7. HMCTS in conjunction with Regional Delivery Directors, Heads of Crime and Resident Judges are working to prioritise and support trials involving youth defendants. This is in addition to the Youth Justice Working Group, chaired by William Davis J.

Custody time limits (CTLs)

8. Case level data on outstanding trial cases with CTLs was shared with regions on Friday 7 August via HMCTS Heads of Crime and Delivery Directors and will be shared weekly thereafter. Data at case level on youths subject to CTLs has already been shared at regional level. At present we have 91 Crown Court rooms suitable for hearing jury trials and, with the changes we are implementing now, we expect this to increase to 100 usable jury trial rooms by the end of August and 250 by November. Court level information on the expected timescales on the work being undertaken to increase capacity will be available via regional Heads of Crime and Delivery Directors. The CTL Protocol Working Group, led by Edis J, is currently reviewing the protocol.

HMCTS individual court building risk assessments

9. Risk assessments for individual court buildings are available from Delivery Managers.

HMCTS jury trial checklists

10. A checklist considering a range of requirements for jurors, witnesses, advocates, defendants and CJS partners is required to be completed before a court restarts jury trials. The checklists also record directions made by the Resident Judge. Completed checklists are available, on request, from JuryTrialWG@justice.gov.uk.

HMPPS Prisoner Escort and Custody Services (PECS) Court assessments

11. HMPPS Prisoner Escort and Custody Services have assessed court custody suites and dock areas. There is one spreadsheet that covers all the magistrates' courts nationally and then one per region for each of the Crown Courts (by PECS regions). Assessments are available, on request, from Contracts_and_Perf@Justice.gov.uk.

Multi hander trials

12. A tracker document has been created to provide information on which court sites are able to accommodate multi hander jury trials of three or more defendants. A copy has been shared with Resident Judges via Heads of Crime and Delivery Directors. This will be updated on an ongoing basis as more sites develop this capability. There are several rooms in England and Wales that can hear multi-hander jury trials in cases involving up to seven defendants, the details of which are listed in the tracker. All HMCTS staff can access this tracker via the HMCTS intranet.

Prisoner attendance at court

13. As you are aware, HMCTS and HMPPS have been making arrangements for various measures to be available which the judiciary may feel it is appropriate to take in order to progress trials. Paragraphs 14 - 16 summarise those arrangements.
14. There is to be further expansion of video capacity within the prison estate during the autumn.
15. Trial judges in liaison with their resident judge and court manager may wish to discuss arrangements for a multi-handed trial with their PECs single point of contact long enough before each trial to enable prisoners to be moved between prisons if that would be helpful. This takes a significant period of time in the present circumstances and may often not be possible. Where cases cannot be heard in the court or Circuit where they are presently listed, the Presiding Judges of the relevant Circuits may wish to discuss relocating them so that they can be heard.
16. Category A prisoners may be produced in person or remotely, where a live link direction has been given, or in combination during the trial, as has recently occurred in a trial at the Old Bailey. Current conferencing suite capacity at HMP Belmarsh supports one multi hander case with up to three defendants at any one time and capacity at HMP Woodhill supports one multi hander case with up to three defendants at any one time. Video conferencing from HMP Woodhill is a new solution and both options may be subject to judicial approval to move cases between courts or circuits. Sufficient lead in time before the trial to allow HMPPS to transfer defendants to HMP Woodhill would also be required. Video capacity will increase as part of the HMPPS reconfiguration project. The courts served by HMP Belmarsh and HMP Woodhill are listed at **Annex A**.

Increasing jury trial capacity in the Crown Court

17. A key way we can increase jury trial capacity in the Crown Court is through the installation of Plexiglass screens and modular units (Portakabin), which will help address the current social distancing constraints.
18. Delivery Directors and Heads of Crime have identified a number of Crown Court centres where these are required. So far, a total of 192 courtrooms and 59 retiring rooms have been identified as a possibility for screens. Site visits and assessments have been taking place and continue to take place. Site visits are key to moving from the art of the possible to implementation and there will be a rolling programme of works. By the end of September, we expect to have rapidly increased the number of jury trials that can take place within court centres across the country.
19. Screens for juries have already been installed in one courtroom in Leeds and three courtrooms at Liverpool. As of 17 August, orders have been placed for a further 115 courtrooms and 42 retiring rooms across Crown Court buildings. All orders for sites identified (and this figure could increase) will be able to be placed by end of month if not before. Only seven sites visit remain outstanding.

20. In parallel, so far 27 Crown Court centres have identified a need for one or more Portakabin unit. These are insulated units with running water and facilities suitable for jury retirement rooms. Each Portakabin unit frees up a courtroom that is currently being used as a juror deliberation room. Portakabin rollout will be affected by screen installations in jury retiring rooms. Sites that had initially pursued a Portakabin, may now prefer to proceed with a screened retiring room as the more suitable option
21. For Portakabin units, Delivery Directors and Heads of Crime are working with Property and Facilities Management and consulting their Resident Judges; and with national judicial and presider input over which courtrooms will be prioritised first. The time period from site visit to installation is expected to take on average four weeks, however this will be dependent on whether enabling works are required.

COVID Operating Hours

22. One of the four pillars to court recovery is to make more use of our existing estate. Andrew Menary QC, Resident Judge at Liverpool Crown Court has, since the beginning of July, been chairing a multi-agency Working Group tasked with identifying the most effective ways of doing this in the criminal courts which will be open for longer.
23. That group has proposed that in the Crown Court we can do this during COVID by extending the times that trials sit within the period that the buildings are open (COVID Operating Hours). The premise is that while our buildings are open we can hold public court hearings for longer, allowing for additional court sessions at different times of day. In doing this, no party will be required to attend court for longer.
24. There are numerous practical, diversity, operational and other considerations that may restrict the way additional hours are used in the Crown Court. However, HMCTS, with the support of the senior judiciary, are putting arrangements in place to pilot a 'blended model' of one courtroom operating Covid hours of 9am – 1pm (trial A) and a separate trial running in the same courtroom from 2pm – 6pm (trial B), with a 30 minute break in each session. This would mean the courtroom could be utilised for longer, without requiring judges, court staff or others to attend court for any longer than they normally would. Alongside this a second courtroom will operate standard court hours. An explanation of the model is available.
25. A small, HMCTS project team, with oversight from His Honour Judge Menary QC, have worked with court staff, CJS agencies and representatives from the legal professions to consider the detail of how this would work in practice and a pilot started at Liverpool w/c Monday 17 August, and will commence in a centre on each circuit a few weeks later. We recognise that changing operating hours will impact court users and it is critical that we consider the differing impacts, including for vulnerable court users and those with caring responsibilities, as well as whether the predicted level of benefit is achieved. HMCTS will therefore carry out an Implementation Review of the pilot with the judiciary.

26. The SPJ has identified a Crown Court centre in each region to pilot COH. These will be kept under review throughout. These courts are listed below, and regions are in the process of establishing Local Implementation Teams (LITS) for each and agreeing start dates with their respective Resident Judge.

Court	Proposed start date
Liverpool	17-Aug
Hull	14-Sep
Stafford	14-Sep
Cardiff	14-Sep
Snaresbrook	14-Sep (TBC)
Portsmouth	21-Sep
Reading	21-Sep

Annex A: List of courts served by HMP Belmarsh and HMP Woodhill (information provided by HMPPS)

HMP Belmarsh can produce prisoners at the following courts:

- Central Criminal Court
- Woolwich Crown Court
- Basildon Crown Court
- Blackfriars Crown Court
- Chelmsford Crown Court
- Croydon Crown Court
- Kingston Crown Court
- Isleworth Crown Court
- Maidstone Crown Court
- Snaresbrook Crown Court

HMP Woodhill can produce prisoners at the following courts:

- Northampton Crown Court
- Birmingham Crown Court
- Winchester Crown Court
- Wolverhampton Crown Court
- St Albans Crown Court
- Leamington Spa Crown Court
- Oxford Crown Court
- Amersham Crown Court
- Peterborough Crown Court
- Cambridge Crown Court
- Luton Crown Court
- Leicester Crown Court
- Reading Crown Court
- Coventry Crown Court
- Huntingdon Crown Court
- Norwich Crown Court

Please note that we are currently verifying with HMPPS the position in respect of the rest of England and Wales and will update in due course.