



SENIOR PRESIDING JUDGE
FOR ENGLAND AND WALES

THE RT HON LADY JUSTICE THIRLWALL DBE

By email only

17 July 2020

Dear Amanda,

Hearings in the Crown Court

Many thanks to you, the President of the Law Society, the Chair of the CBA and the Circuit Leaders for raising with me and the DSPJ the approach to hearings in the Crown Court. This has been one of many issues you have raised with us in our discussions during the pandemic.

You asked for a national protocol or guidance about the way in which hearings should be listed in the Crown Court, particularly on the question of when participants should be in the courtroom and when they could attend remotely. As I explained in our meetings, a national protocol or national guidance is not appropriate. Judicial independence is an integral part of our constitution, as I know you all recognise. How they organise the lists at their courts is a matter for individual Resident Judges, not the senior judiciary nor the professions. Whether to direct remote attendance is for the individual judge, applying the law in each case.

You drew to our attention to the document produced by one of the Resident Judges for use in her Crown Court. With some small adjustments you regarded it as a useful guide with which you all agreed and which you suggested could be adopted by other courts. Whilst guidance is not appropriate, the DSPJ and I distributed it to the Resident Judges for discussion last week in order to be able to give you a steer as to the approach currently being taken to these questions.

As I told you on Monday, much of what is in the document chimed with the approach of the other Resident Judges. This is not surprising since all are striving to administer justice in a difficult and changing environment, while taking account of the views of the parties, the need

for sensitivity to those who are shielding or vulnerable and the need to achieve effective hearings in the interests of justice.

It is the general approach of the Resident Judges currently to list as remote hearings all short, relatively straightforward matters eg:

- **Mentions,**
- **FCMH,**
- **Pre- trial reviews,**
- **Bail applications/variations**

Longer hearings may also be dealt with effectively with some or all of the participants being remote eg **applications to dismiss, applications for interim hospital orders.**

PTPHs vary in complexity. Many are more productive when all parties are in attendance. Others proceed well as remote hearings. In all cases, of course, it is incumbent upon the advocates to have engaged directly at an early stage in accordance with the rules so that real progress may be made at the hearing.

Defendants in custody; the general approach is that defendants in custody are expected to attend PTPH and sentence by video link. Where it is necessary for the defendant to be produced the court so directs. Newton hearings generally require the attendance of the defendant at court.

Defendants on bail are generally expected to attend in person for PTPH and sentence.

Advocates; where a defendant is at court it is generally expected that his or her advocate will also be at court. It is usually helpful for prosecuting advocate to be at court.

In accordance with the statutory test, personal attendance of advocates and other participants may be dispensed with by the judge where it is in the interests of justice to do so.

Applications to extend CTLs; there is nothing to add to the Covid protocol, which I believe is working well.

Other matters

I readily acknowledge that the quality of remote hearings depends on the reliability of the broadband of each participant who is appearing remotely. It also depends on the stability of

the platform. We all hope and expect that the increased availability of CVP across the Crown Court estate will lead to fewer incidents of instability giving greater confidence to all.

More courtrooms are being used as we endeavour to conduct more hearings, including trials and I know there has been communication between the judiciary, the courts and court users as to what to expect at court. We are looking forward to being in a position to list trials into more courtrooms.

Section 28; It is intended to roll out section 28 to courts in London and the South East and one in the Midlands. I believe you are aware of the courts involved.

Additional buildings to be used as courts; We are now listing into the first wave of additional buildings across the jurisdictions. Again, I believe you are aware of the locations of these buildings.

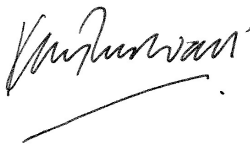
Magistrates' Courts

The DSPJ and I issued some clarification on 25th June which I won't repeat.

In London and the South East there is a chart in circulation which reflects current practice. It isn't guidance, but I believe you will find it helpful. It is attached.

I trust the professions are aware of how much of your collective time has been spent in discussions on this and many other topics across the jurisdictions, sometimes urgent and occasionally out of hours. I hope all of you will be able to take a break at some stage.

With best wishes,



Senior Presiding Judge

Cc: 1. President of the Law Society,
2. Chair of the CBA,
3. Circuit Leaders

Attachment: Live Link Framework 14 7 2020