

CRIME AND REGULATORY GUIDANCE DURING COVID-19 SUMMARY

CROWN COURT

Technical Issues

Jury trials are currently suspended. The North-Eastern Circuit Covid-19 Protocol ('NEC Protocol') directs that it is the default for all hearings to be undertaken remotely via Skype for Business. This includes PTPHs, further case management hearings, sentencing hearings and all urgent applications including applications for bail and to extend CTLs. Priority is given to custody cases.

To join a hearing the participant will need either a laptop/tablet device with a web cam or a smartphone.

The participants do not need a Skype for Business account but can join the meeting as a guest. The HMCTS guide on how to join a hearing can be found [here](#).

Dress Code and Background

Robes are not required to be worn but business dress is.

All advocates should choose a suitable location from which to join the hearing which needs to be quiet with no disturbances, ideally a with a plain background and avoiding any bright lights or windows.

Listing

All remote hearings will be given a time estimate of 30 minutes unless you have notified the court otherwise by 12:30 on the previous working day and each hearing will be given a specific time slot.

In Advance

The advocate will need to have supplied to the court, in advance, an email address to be used for an electronic invitation to be sent. It is important to note that this email account must be accessible on the device you will be using for the hearing.

Each court centre is to provide a direct dial number to call if there are any difficulties or enquiries about the hearing.

Advocates are encouraged to have spoken separately, prior to the hearing, as Skype for Business does not have the facility for separate 'rooms' for such discussions to take place.

Ensure the microphone and cameras on your device are working and turned on.

Currently Sheffield Crown Court has issued its own guidance for remote hearings. It is based on copying and pasting a link, from the comments section on the case on the DCS, into an internet browser prior to the hearing. It is anticipated that they will soon change to the above protocol.

Obligations to Review Cases Listed for Trial

Barristers at PSQB will also be following the Circuit protocol for reviewing all upcoming jury trials already listed.

By 28th April 2020 both prosecution and defence advocates must have reviewed all their outstanding Crown Court trials and, where necessary, spoken to their instructing/reviewing lawyers and clients. This is to enable both sides to have conferred, remotely with each other, by 4th May 2020 and agreed whether a case is capable of resolution or whether further case directions are needed.

By 7th May 2020 the Crown Court Listing is to be notified by the CPS by email whether the case is capable of resolution and therefore listed for mention or whether a further case management hearing is required. This will include the contact details needed for the hearing of all participants (incl the Defendant if on bail).

Also by 7th May 2020 the Prosecution is expected to have notified the court if there has been any failure of the above and the Judge will decide if a non-compliance mention is needed.

PTPHs For Defendants on Bail

Bail PTPH listing will happen within the same timescales as before the pandemic.

The prosecution is required to upload a case summary, key material and indictment 7 days in advance.

The defence instructed advocate is expected to have conducted a remote conference, arranged by those instructing, with the Defendant and then spoken with the Prosecution in advance of the PTPH.

If acceptable pleas are agreed the Listing Officer is to be informed by 1pm the day before the PTPH. All the relevant contact and email details of the participants, including the Defendant will be need to be provided.

Guilty pleas cannot be taken in the total absence of the Defendant (i.e he will need to be participating over the link). If the Defendant can't be linked in to enter acceptable guilty pleas the hearing will be vacated with directions given.

If the matter is to proceed to trial the Defendant is excused unless he can be linked in remotely (via Skype for business or if the Judge agrees another approved platform or BT MeetMe telephone conferencing). In such cases the online PTPH form on the DCS is to be completed by 10am the working day before and the relevant contact details for the Defendant must also have been communicated to the Listing Officer by this time.

It is expected that effective PTPHs will be conducted as before with the usual case management completed.

Listing of Remand Trials & CTLs

Additionally there is a protocol as agreed between the Senior Presiding Judge, HMCTS and CPS summarised as follows (see [CTL protocol](#)).

If the trial cannot be listed within the CTL then the case is not listed for trial but for a mention within the CTL at which the case can be reviewed, a CTL extension can be considered and/or ideally (if the current circumstances have changed), a trial date set which might be almost immediately to that date (therefore all cases should have completed the relevant stages and the parties be trial ready).

The protocol has also stated that Coronavirus is a '*good and sufficient cause*' as set out in section 22(3) Prosecution of Offences Act 1985.

At any hearing the CTL and an extension can be considered without a written notice served in advance although in the Crown Court any application should be uploaded to the DCS in advance.

MAGISTRATES' COURT

Trials and Single Justice Procedure cases are suspended. Magistrates' Courts are only conducting [urgent hearings](#) which includes: custody cases which are overnight cases, productions from prison or applications to extend CTLs; civil applications relating to public health legislation; and urgent police applications such as DVPOs, search warrants and warrants of further detention. Magistrates' Courts plan to re-start work on police traffic prosecution cases, where these can be done remotely.

Custody Time Limits (CTLs)

As per the Crown Court guidance above (see [CTL protocol](#)).

Police interview

A Coronavirus interview [protocol](#) has been agreed between the CPS, Law Society and National Police Chief's Council to assist as to whether suspects should be interviewed during the pandemic period. It includes guidance on how legal advice should be given and interviews conducted.

Court Martial

The Judge Advocate General [directed](#) on 2nd April 2020 that Military Courts will suspend all proceedings, except for urgent hearings until 18th May 2020. There are not exhaustively listed but examples include all matters relating to custody and urgent applications for arrest and search warrants. Exceptional approval may be granted by the Judge Advocate General for other high priority proceedings. All hearings are to be conducted remotely.

Appeals to the General Regulatory Chamber

The General Regulatory Chamber has [imposed](#) a 28 day stay and time extension on all proceedings under section 48 of the Data Protection Act 1998, section 162 of the Data Protection Act 2018 and section 57 of the Freedom of Information Act 2000, from the 1st April 2020.

[Other proceedings](#) will be dealt with on paper or by remote hearing. There is a distinction made between urgent and non-urgent hearings. Urgent cases will be subject to the [pilot fast-track](#) scheme which was imposed on the 23rd March 2020 for a period of 12 months and applies to designated appeals as listed at paragraph 6 of the protocol.

All cases listed for an oral hearing will be postponed to enquire if parties agree to a determination on the papers/arrange a remote hearing/ask for postponement. The default position is that cases will be listed for determination on the papers.

Nathan Davis
Matthew Stewart
9 April 2020