

NORTH EASTERN CIRCUIT COVID-19 PROTOCOL

This protocol has been drafted in order to provide circuit-wide guidance to the Judiciary, the Bar, CPS and Defence Solicitors. Given that the Covid-19 pandemic is fast moving it is recognised that the protocol may change at short notice and that there is a need for flexibility. This protocol is based upon the Review of Court Arrangements due to Covid-19 by the Lord Chief Justice dated 23rd March 2020.

1. For all Crown Court hearings the default position is that all Crown Court hearings should be undertaken by way of a remote hearing using the Skype For Business electronic communications platform or, if that fails, BT MeetMe telephone conferencing or where efficacious some other electronic communications platform at the discretion of the Judge. It is not necessary for applications to be made in each case to individual Judges for permission to appear remotely. Agreement between the Bar Clerks and Listing Officers will suffice and is to be encouraged. The lists will provide fixed times for hearings where advocates attend remotely as already occurs in PVL cases.
All hearings will take place in open court and be recorded on DARTS.
2. No jury trials will commence until further notice.

- (1) Trials already listed for hearing where a defendant is in custody will be listed for mention either on their trial date or an earlier date in order to explore whether the case is capable of resolution. Trial advocates are to attend where possible.

If the trial is capable of resolution then it may proceed to sentence.

If not capable of resolution the case will be re-listed for mention and to re-fix the trial date on a date not before 12 weeks after the original trial date.

Instructed advocates and solicitors are encouraged to review all cases listed for trial in order to explore any proper avenue for the resolution of those cases. If Judicial assistance might enable sensible resolution, the parties and their representatives have an obligation to seek it. Courts are likely to be independently reviewing cases listed for trial and may be proactive in contacting the parties to explore resolution in accordance with Part 1 of the Criminal Procedure Rules.

Custody time limits will be considered on the date of the mention.

- (2) Trials already listed for hearing where a defendant is on bail will be taken out of the Court list administratively and re-listed for mention and to re-fix at an appropriate point in the future.

3. Plea and Trial Preparation Hearings

- (1) New cases sent for trial from the Magistrates Court where the defendant is in custody will be listed for PTPH as normal within 35 days of the date of sending.

At PTPH trial advocates are to appear where possible. The defendant will attend via PVL and may be arraigned. In the event of a guilty plea the defendant can be sentenced either on that date or on such other date as the Court considers appropriate.

In the event of a not guilty plea the case will be listed for trial and stage dates set as normal. Upon completion of stage 2 the case will be listed to review the trial date.

- (2) New cases sent for trial from the Magistrates Court where the defendant is on bail will not have their case listed for PTPH until a date to be confirmed.

4. Committals for Sentence

Cases which are committed for sentence from the Magistrates Court and where the defendant is remanded in custody will be listed for sentence in the normal course of events. At the listing of the case it is expected that the court will proceed to sentence. The defendant will attend by PVL. Accordingly, if a PSR/SDR is likely to be required for sentence, the Defence are encouraged to apply for one at the Committal hearing in the Magistrates Court. There is no guarantee that a PSR/SDR will be available for the sentencing hearing. This is not an indication that sentence will not take place. That is a matter for the sentencing judge, after hearing submissions.

Cases which are committed for sentence from the Magistrates Court and where the defendant is on bail will be adjourned administratively until a date to be fixed in the future.

5. Other hearings:

It is recognised that some cases will need to be listed as a matter of genuine urgency. This includes, inter alia, bail applications, bench warrants, extensions of custody time limits, extensions to interim hospital orders and some genuinely urgent sentence appeals. The court will continue to list such cases where

application is made by either prosecution or defence and it is thought appropriate by the Resident Judge.

6. In any case in which it is necessary to extend the Custody Time Limit as a result of the operation of this protocol then, in accordance with Paragraph 7 of The Prosecution of Offences (Custody Time Limit) Regulations 1987 and Part 14 of the Criminal Procedure Rules, the Court does not require the application to be made in writing and does not consider it practicable for the Crown to give notice of its intention to make such an application prior to the mention hearing itself.

7. Re-Listing of Trials

It is unlikely that trials where a defendant is remanded in custody will be re-listed before September 2020, although this will depend upon available trial dates at individual courts and government advice.

8. When considering re-listing a trial, priority will be given to:
 - (1) Class 1 cases.
 - (2) Cases in which the defendant has been in custody awaiting trial.
 - (3) Cases involving vulnerable witnesses.
 - (4) Cases involving any other circumstance which the court considers meritorious.

9. Case Ownership

Case ownership will continue to apply and advocates instructed for trial should conduct the mention and PTPH hearings if at all possible and make every effort to explore sensible resolution of the case prior to and at that hearing.

10. Covid-19

Any defendant in custody, who is in isolation as a result of following Government guidance concerning Covid-19 or who is extremely vulnerable as defined in that guidance will not be expected to attend.

Defendants who cannot attend as a result of self-isolation

11. The cases of Defendants remanded in custody who fail to attend over the PVL as a result of self-isolation will have their cases relisted for mention (if their trial has been vacated) or other hearing within 28 days of the date of the original hearing unless the Court orders otherwise.
12. Defence representatives of those Defendants who are in a protected category of person who has been advised by letter from Government to self-isolate for a

protracted period of time should bring that fact to the attention of the Court as soon as it is known. In these cases a flexible approach to re-listing will be taken. Defendants can expect to be asked to produce the letter from Government as evidence.

Mr Justice Goss Presiding Judge of the North Eastern Circuit
Mr Justice Lavender Presiding Judge of the North Eastern Circuit

HHJ Adkin Resident Judge Durham
HHJ Kearl QC Resident Judge Leeds
HHJ Morris Resident Judge York
HHJ Richardson QC Resident Judge Sheffield
HHJ Rose Acting Resident Judge Bradford
HHJ Sloan QC Resident Judge Newcastle
HHJ Thackray QC Resident Judge Humberside
HHJ Watson QC Resident Judge Teesside