

## INTERIM GUIDANCE ON LISTING AS TRIALS RESUME

1. When Crown Court trials resume, in those courts which can accommodate them whilst observing the advice of Public Health England, there will inevitably be a period during which only a limited number of trials can take place. It will therefore be necessary for decisions to be made as to which cases should be given priority. The following general guidance is given for the assistance of Resident Judges and Presiding Judges. It will apply until further guidance is given.
2. As always, listing remains the responsibility and function of the judiciary. As Division XIII of the Criminal Practice Direction states, the Presiding Judges have overall responsibility for listing at all courts on their circuit. Under their supervision, the Resident Judges have the general responsibility for allocating work at their courts. It will therefore be for the Resident Judges to decide which cases are listed in their courts: that is a judicial function which will take into account the relevant factors, including those set out below.
3. During the period when trials are resuming, and before normal operating levels have been reached, Resident Judges will need to balance not only the factors which conventionally inform listing decisions, but also factors relating to the practicability of listing particular trials. Paragraphs 4 and 5 indicate factors which may be relevant: their relative importance will vary from case to case, and the order in which they are listed is not to be taken as a hierarchy.
4. Factors which are always considered include (but are not limited to) –
  - a. Whether the defendant is in custody and, if so, the date when the CTL expires and whether there has been any extension of the CTL;
  - b. The nature, seriousness and date(s) of the offence(s) charged;
  - c. The age and/or vulnerability and/or mental health issues of a defendant, victim, complainant or witness;
  - d. The availability of a judge authorised to try the relevant class of case;
  - e. The availability of instructed advocates.
5. Factors relevant to practicability include (but are not limited to) –
  - a. The number of defendants (it is likely to be easier to observe social distancing if there is only one defendant than if there are two or more);

- b. The realistic time estimate, taking into account the changed circumstances in which the trial will be heard (whilst social distancing requirements and restrictions on movement continue, it is suggested that in general, no trial should be undertaken which cannot reasonably be expected to be completed within 2 weeks);
  - c. The number of witnesses who will be required to attend, their ability to travel to and from the court, the nature and extent of any special measures which have been ordered or are likely to be ordered, and any requirement for interpreters or intermediaries;
  - d. The volume of documentation which the jury will need to consider, and the extent to which they will need to examine exhibits;
  - e. The number of persons who are expected to want to attend court to observe the trial (a high-profile case which will attract much public interest may be difficult to accommodate).
6. Presiding Judges should liaise with their Resident Judges to make arrangements to ensure that courts which are able to conduct trials will, where it is necessary and practicable, take urgent cases from courts which are unable to hear them.

The Rt Hon Dame Victoria Sharp DBE  
PRESIDENT OF THE QUEENS BENCH DIVISION

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