



Guidance Note # 7

explaining the operating hours for trials at Liverpool Crown Court, including the temporary use of the am-pm court model in one trial courtroom.

Purpose

This document gives notice of a temporary modification to the conventional hours that will operate in one of the trial courtrooms available at the QEII. This change will come into effect on 17 August 2020.

General matters

- ❖ In March 2020, at the beginning of the current crisis, the Lord Chief Justice took the decision to pause all new jury trials. At that stage, there was already a backlog of cases awaiting trial at Liverpool Crown Court. Although we have now resumed jury trials, disposal rates are far below levels recorded in February 2020 and before. Given the requirements of social distancing and the need to make all parts of the building COVID-secure, it is likely that our capacity to conduct trials will be severely compromised for the foreseeable future.
- ❖ From 10 August we will have four trial courtrooms. It is hoped that from sometime in September we will have a total of eight, including some that can accommodate multi-handed cases. Because trial courtrooms are currently a

scarce resource, it is essential that we maximise their utilisation if we are to begin to reduce the backlog and deal with 'new' cases now being sent from the Magistrates' Court.

- ❖ For this reason, we are going to introduce a modified listing pattern for trials that will hopefully extend the operational capacity of one of our trial courtrooms. In essence, separate trials will be listed in this courtroom – one in the morning and the other in the afternoon. This will enable us to extend the operational period of the courtroom by about 3 hours a day.
- ❖ This modification will require significant logistical and practical adjustments to the operation of the court and the way many court users typically work. It may not be sustainable for an extended period and will be subject to rigorous evaluation to determine whether the hoped-for gains are realised.

Guidance

1. From 17 August 2020, when we have more than one trial courtroom available, we will be listing AM and PM trials in one of these courts. The other trial courtroom(s) will sit conventional hours.
2. The AM trial will sit from 9:00am to 1:00pm.
3. The PM court will sit from 2:00pm to 6:0pm.
4. The other trial court(s) will sit the conventional hours between 10:00am and 4:30pm.

5. Each of these trial courts will have separate lists. Transfers between the AM and PM lists will not normally happen on the day fixed for the trial. Such a transfer would be exceptional and require careful consideration by the court of the impact of this on all affected parties.
6. We believe that the greatest gains are more likely to be achieved if we apply particular criteria to the listing of cases in the am-pm courts. Broadly speaking, it is likely that the shortest and most straightforward cases will be most suitable for these shift courts.
7. We will apply the following broad principles when listing cases in the am-pm courts. These listing principles are only guidelines and a departure from them may be justified depending on the circumstances of a particular case.
 - Trials involving a female or young Defendant in custody will not be listed in a shift court. The Prisoner Escort and Custody Service (PECS) cannot reasonably arrange transport of these categories of prisoner for delivery to court by 8:30am.
 - The trial should ideally involve a single Defendant.
 - The trial should have an estimated hearing length of no more than 2-3 days (ideally 2 days or less).
 - Custody and bail cases can be listed in the AM court
 - Only bail cases will be listed in the PM court.

- A S28 case with limited witnesses (and a 2-3 days ELH or less) is likely to be suitable for the am-pm court.
 - A trial with a vulnerable witness (where s28 xx has not been utilised) is unlikely to be suitable for a shift court.
 - A trial with a large number of witnesses is unlikely to be suitable for a shift court.
8. The listing team will publish a provisional list of the cases to be tried in the trial courts two weeks in advance of the proposed trial date. This will include the cases to be tried in the am-pm courts.
 9. The court will take account of representations made by the parties (supported by reasons – in confidence to the Resident Judge if necessary) when deciding whether a trial should remain in the AM or PM court, be moved between these courts or moved to a conventional trial court.
 10. We hope that the flexible approach that will be taken to listing cases in the am-pm courts alongside trial courts operating conventional hours, and the facility for court users to make representations about any listing in these courts will avoid or mitigate some of the known risks associated with operating these extended hours.
 11. We emphasise that this modification is intended to be temporary and will be kept under active review.

HHJ Andrew Menary QC

Resident Judge and Honorary Recorder of Liverpool

30 July 2020