

**THE CROWN COURT AT LUTON**

INFORMATION & GUIDANCE FOR LEGAL PROFESSIONALS

***Introduction***

Each court centre faces its own permutation of challenges to reducing its backlog and ensuring optimum use of its available resources. This document is intended to set out the general approach to be taken at Luton to listing and other measures intended to promote efficient and effective case progression and trial management. The document seeks to convey the Court’s desire to engage positively and constructively with the legal professionals appearing before it, while factoring in all other relevant considerations. Advocates, judges and court staff are all experiencing significant pressures and it is hoped that the contents of this document will contribute to a reduction in this, as well as improved efficiency for all concerned in the process.

Insofar as anything in this document may appear different from the general expectations in BCM [Revived] (in particular no more than four hearings and attendance in person), it is to be considered as a temporary measure to address the difficulties presently affecting the Court’s ability to progress all cases in its workload in the optimum manner. The Court intends to keep its approach under regular review to maintain its effectiveness in achieving its goal.

***Listing***

Following careful consideration of the alternatives, Luton has moved to fixed trial dates for all new cases received since January this year. The composition of work at Luton is such that existing courtroom capacity is often already fully utilised dealing with existing fixtures (primary fixtures and floaters/backers).

Cases in legacy (pre-existing) warned lists will be called in for trial where possible, but if not reached or not capable of being heard (for example due to the absence of an advocate) they will be assigned a new fixed date for trial.[[1]](#footnote-1) With the assistance of the Leader of the SE Circuit and the Chair of the CBA, a liaison group has been set up, consisting of the Court Listings Manager, a member of the local Bar mess and representatives from the main chambers supplying advocates to the Court, as well as the main solicitors firms with HCAs. It is intended that the group will meet monthly to consider in advance the warned list cases coming up so that there is a clearer picture of those that can be effective. It is hoped that early identification of difficulties will lead to more timely resolution in the interests of all involved, promoting efficient use of Court resources.

In listing a case for trial, including relisting warned list cases, the Court recognises the importance of, and will do its best to accommodate, advocates’ projected availability. However, such projected availability cannot be determinative as it is not always possible to fix a date within a reasonable timeframe that suits all involved. In addition, the Court must ensure that its available resources are being utilised to the fullest, while not exerting unrealistic expectations on the Court diary.

Once a judge has fixed a date (or approved a date agreed by advocates with the List Office), it is the responsibility of any advocate, who will not be available for such date, to liaise with their instructing solicitors/the CPS/their firm to ensure that suitable alternative representation is secured in good time. How and when that is done is a matter for professional judgment, but it is unlikely that a late application to break fixture (based on the unavailability of an advocate) will find favour with the Court, save in exceptional circumstances.

***Appearance of advocates by CVP (subject to it functioning properly)***

Remote attendance of advocates brings with it both advantages and disadvantages. While it is preferable for advocates to attend court in person whenever possible, the Court recognises that an insistence on this in every case at Luton could be counter-productive. The Court has adopted a more flexible approach with the aim of maximising the effectiveness of hearings. In doing so, the Court expects advocates to reciprocate by being realistic about the number and timing of their professional engagements on any given day so that a courtroom is not left sitting, waiting for them to join/attend. There is a distinction to be made between the type of hearing and whether the defendant(s) is/are attending in person (whether produced in custody or on bail). Where a judge has directed attendance in a particular mode, then that direction applies unless there is very good reason to request a different mode. Any request must provide sufficient detail of the very good reason and should be forwarded to the List Office, which will pass it on to the relevant judge or, in their absence, the Resident Judge. Where no specific direction has been given, advocates can generally expect the following approach by the Court:

| ***Type of hearing*** | ***Prosecution*** | ***Defence*** |
| --- | --- | --- |
| **PTPH** | May attend by CVP, unless attendance of victim/family etc is likely OR the case is complex (either in itself or due to the number of defendants) in which case advocate must attend in person.  *Any attendance by CVP is predicated on liaison in advance between prosecution and defence to ensure that the hearing is effective, whatever the plea that is entered.* | Defendant in custody, appearing remotely – Advocate may attend by CVP.  Defendant in custody, being produced – Advocate should attend in person, save in exceptional circumstances and on the basis that the advocate is fully instructed and the PTPH can proceed effectively with the advocate attending by CVP.  Defendant on bail - Advocate should attend in person, save in exceptional circumstances and on the basis that the advocate is fully instructed and the PTPH can proceed effectively. |
| **Sentence** | May attend by CVP, unless attendance of victim/family etc is likely OR in cases of seriousness and/or complexity (either in itself or due to the number of defendants) when the advocate must attend in person. | *Defendant in custody, appearing remotely* – Advocate may attend by CVP  *Defendant in custody, being produced* – Advocate must attend in person.  *Defendant on bail* - Advocate must attend in person. |
| Any hearing at which evidence is to be given | Must attend in person. | Must attend in person. |
| **Pre-trial reviews** (Defendants will almost always be required to attend) | May attend by CVP, unless attendance of victim/family etc is likely OR in cases of seriousness and/or complexity (either in itself or due to the number of defendants) in which case advocate must attend in person, unless exceptionally trial counsel can only attend by CVP.  *Any attendance by CVP is predicated on liaison in advance between prosecution and defence to ensure that the hearing is effective.* | Defendant in custody, appearing remotely – Advocate may attend by CVP.  Defendant in custody, being produced – Advocate must attend in person, unless, exceptionally, trial counsel can only attend by CVP.  Defendant on bail - Advocate must attend in person, unless, exceptionally, trial counsel can only attend by CVP. |
| All other hearings where a defendant **is** attending | May attend by CVP, unless attendance of victim/family etc is likely OR in cases of seriousness and/or complexity (either in itself or due to the number of defendants) in which case advocate must attend in person.  *Any attendance by CVP is predicated on liaison in advance between prosecution and defence to ensure that the hearing is effective.* | Defendant in custody, appearing remotely – Advocate may attend by CVP.  Defendant in custody, being produced – Advocate must attend in person, save in exceptional circumstances.  Defendant on bail - Advocate must attend in person, save in exceptional circumstances. |
| All other hearings where a defendant is **not** attending | May attend by CVP. | May attend by CVP. |

***Requests and applications to attend via CVP***

A request for CVP relates to any entry above which states that an advocate ‘may’ attend remotely. An application for CVP relates to all other circumstances, including any reference to exceptional circumstances. Sufficient detail will be required of the exceptional circumstances so that a judge can consider them and determine the application.

The daily volume of requests/applications for CVP demands considerable administrative and judicial resources and the intention of clarifying the general approach above is to minimise this. The Court does, however, need to be notified of any advocate’s request/application to attend by CVP in a timely fashion. Late applications are unhelpful and it should not be assumed, as often seems the case, that they will be granted because the Court is left with little choice. Applications should also not be emailed directly to a judge, unless that judge has given prior consent to receive such communications (please see below more generally in relation to emails).

Requests for CVP attendance, as defined above, should be notified to the List Office as soon as the first draft list has been published. The List Office will apply the provisions in the table above in dealing with such requests. The List Office will refer any doubtful situation to a judge.

Applications for CVP attendance should again be notified to the List Office as soon as the first draft list has been published. They will referred to a judge for determination.

Although arrangements are occasionally agreed for the attendance of a defendant on bail remotely from another court building or police station, applications should not be made for defendants on bail to appear by CVP from their home/place of work etc.

***Drafting documents***

The Court understands the difficulties that can arise for advocates if directions are made for the provision of written submissions, sentencing notes and the like, which are either unreasonable in principle or in the timing thereof. Judges will generally only request/direct the drafting of documentation in situations that involve novel or complex features of law or fact. Any assistance provided by advocates beyond this is always welcomed, but will not be expected, by judges.

***During a trial***

The Court appreciates the work demands on advocates engaged in a trial, particularly a trial of any length. Where possible, a judge will try to build into the working day some time for the advocates to consider and respond to documents produced by the judge, for example, written directions for the jury or a route to verdict. This is more easily achieved when the judge has other work that can be scheduled either at the start or towards the end of the sitting day. It should be noted that it may be less achievable with fee-paid judges/recorders when the pressure to conclude the trial within a fixed window may have to be prioritised.

***Direct emails to judges***

Advocates should avoid emailing judges directly unless the judge has consented to this in advance in a particular case. With the obvious exception of highly urgent matters or where specifically agreed in advance for good reason, when sending emails to advocates, judges do not expect a response outside of working hours; nor should advocates expect that emails sent out of hours will necessarily be read by a judge before the start of the next working day. Advocates can use the Notes facility on DCS to highlight a note’s relevance by using the ‘Update Tags’ feature[[2]](#footnote-2). Newer cases now have a separate Advocates Placeholder page which can be used.

***Telephone hearings***

The Court no longer undertakes hearings by telephone. For the avoidance of doubt, any pre-existing directions given for a telephone hearing should be treated as a direction for a hearing by CVP, unless the hearing is a pre-trial review, in which case attendance is directed in accordance with the relevant section in the table above.

***Court User Group***

The Court User Group meets approximately quarterly. The CPS is represented, as are most CJS agencies. The defence community is equally welcome to attend and contribute to the discussions.

***Raising concerns***

Any issues arising from this guidance, or any matters that a legal professional wishes to raise about the functioning of the Court, should be brought to the attention of the Resident Judge, preferably by email to hhj.michael.simon@ejudiciary.net.

1. *The unavailability of advocates has significantly impacted the number of warned list cases that could be listed over the last number of months.* [↑](#footnote-ref-1)
2. Click on ‘Update Tags’ and a small freetext box will appear. Advocates can use this to identify a note for a specific upcoming hearing or more generally what a note relates to. More than one tag can be added to a note. [↑](#footnote-ref-2)