



Senior Presiding Judge
for England & Wales

The Rt. Hon. Lord Justice Edis

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By email

6 July 2023

Dear Jonathan and Tana,

Thank you for your letter of 23 June and for sharing your further thoughts regarding the CBA Wellbeing Protocol. After careful consideration my final thoughts on the points raised are as follows.

The Statement of Expected Behaviour issued by the Lord Chief Justice and Senior President of Tribunals sets out expectations for all judicial office holders between each other, staff and all users. This includes relationships with the Bar. The statement was specifically raised again at the Resident Judges Conference in June 2023 and has been circulated to criminal judges. It is also prominently placed on the front page of the judicial intranet.

As previously mentioned, where issues arise these should, in the first instance, be flagged with the relevant Resident or Presiding Judge who can help to deal with them. These leadership judges have been encouraged to be receptive to such approaches, which may be made by a senior colleague on behalf of a barrister who does not wish to do it themselves. If any member of the Bar does not feel able to raise concerns with the local leadership judges the issue can be raised with my office at SPJOffice@judiciary.uk for my attention.

At a recent open discussion with members of the CBA online, a question was raised about judges seeking sentencing notes in increasing numbers of cases from prosecuting counsel. His Honour Judge Kinch KC and I emphasised that, in cases where they are required, these

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should not be long or complex documents which take a long time to prepare. Nowadays, the prosecution is expected to assist the court in the application of relevant guidelines and it has always been the job of the prosecution to help the court in sentencing by ensuring that the law is properly applied. All that is required when a sentencing note is requested is advance notice, in short form, of what the prosecution intends to say about these questions. I am sure that judges will see the need to exercise some care in ensuring that unreasonable demands are not imposed on counsel in straightforward cases.

The impact of the revised BCM Handbook and listing advice to judges is being closely monitored for the remainder of this year and it is a priority of mine to ensure these principles are being adhered to. This programme is conceived as a 12-month exercise which is halfway through. I hope this will improve the working lives of your members. Their “buy in” and support is important to its success.

I am currently taking active steps to reduce the proportion of cases which are taken out of the list at or shortly before the listed trial date because there is no court available or because the cases are not ready for trial. I have met with judicial members of the Crown Court Improvement Group and this issue is being addressed with the assistance of HMCTS. This is a response to concerns about witnesses, victims and defendants but also a response to representations made by the CBA on behalf of its members. If we are successful, this will benefit criminal barristers as well as others.

I confirmed earlier this year that it is inherent in the listing advice that counsel’s availability is a relevant factor in fixing trial dates.

Like you, I value the good working relationship between the Bar and Bench and look forward to this continuing in the future. The above measures demonstrate that it is my wish for the judiciary, and everyone involved in the criminal justice system to treat each other in a fair and equal manner.

I will ensure that this letter is copied to the Circuit Judges of the Crown Court so that they know what I have said.

Yours sincerely,

A handwritten signature in black ink that reads "Andrew Edis". The signature is written in a cursive, slightly slanted style.

The Rt Hon. Sir Andrew Edis
Senior Presiding Judge for England and Wales

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