



Better Case Management (BCM) Newsletter

27 NOVEMBER 2015

Issue 4

Welcome to this fourth newsletter which provides some initial feedback and views on the first PTPH hearings in the Early Adopter Courts which started on 5 October 2015.

**BCM will be implemented nationally from
Tuesday 5 January 2016**

Better Case Management (BCM)

Better Case Management (BCM) has now been operating in 6 Early Adopter Crown Courts (Isleworth, Leicester, Merthyr Tydfil, Portsmouth, Reading and Woolwich) for approximately 7 weeks, having started on 5 October 2015. This meant that the first cases were listed in the Crown Court for the new Plea and Trial Preparation Hearings (PTPHs) from 2 November 2015.

The other two Early Adopter Courts started more recently, with Liverpool starting on 26 October and Leeds on 9 November. Therefore, they still await their first PTPHs, which will be 28 days after the case is sent from the Magistrates' courts. Whilst it is still "early days" here are some of their initial views.

Key Positive Elements

- Merthyr Tydfil conducted the first digital PTPH in England and Wales on Monday, the 2 November. This was achieved through tremendous hard work by all the agencies who have operated well, both individually and collectively.
- All parties appear supportive, with the police and CPS working hard to meet their obligations. There appears to be a commendable willingness from all practitioners to ensure that the PTPHs are effective.

"Advocates seem keen to make the hearings effective. They, above all, see the benefits of fewer but more effective hearings."

HHJ Edmunds, Isleworth Crown Court

- There have been a number of examples of successful communication between the CPS, Defence and police prior to the PTPH.

- There were more guilty pleas than expected at the PTPHs, in some instances to serious offences, such as rape. It was noted that this was often due to the information provided by the prosecution. In one instance, this included damning streamlined forensic reports.

“I was struck by the number of guilty pleas. For example two Polish men pleaded guilty through interpreters to a s.18 GBH. That would never have happened at a preliminary hearing. It was the product of constructive engagement between the CPS and the Defence”

HHJ Edmunds, Isleworth Crown Court

- A good percentage of guilty pleas are being disposed of on the day, either because they do not require a Pre Sentence Report (PSR), or by making good use of the stand down report facility provided by probation officers in court. Judges are being robust and resisting applications to adjourn, and instead putting cases back to allow the defence to take further instructions in order to mitigate. Cases are only adjourned for necessary checks to be made, for example, if the offence is one of violence.
- The PTPH makes it easy to identify the principal issues. As a consequence, in the first week of PTPHs at Merthyr Tydfil Crown Court, there were no cases that required a Further Case Management Hearing (FCMH), and Portsmouth Crown Court only had only one case that required a FCMH.

“The Wi-Fi came into its own. Without it half the hearings would have been ineffective. It was used by the CPS rep in court, the prosecution and defence advocates to email indictments, papers and PTPH forms. Most of the advocates came with only a laptop/iPad, and therefore electronic copies of all documents, which bodes well for the introduction of the DCS. As a result, the court was able to complete the PTPH form electronically in all but one case.”

HHJ Robinson, Woolwich Crown Court

“I had conducted a sentence list last Friday, entirely from DCS, which was very successful”

HHJ Hetherington, Portsmouth Crown Court

“Absolutely loved working digitally”

Clerk, Portsmouth Crown Court

Key Elements for Improvement

- Some defence practitioners are still unaware of the requirements of BCM and their obligations under the Practice Direction. As a consequence they are unprepared for the rigors of the PTPH.
- There are difficulties with the current processes and systems for recording the details of the defence representative. This can be caused by Legal Aid being granted after the case has already been sent from the

magistrates' court, which means it has been finalised on Libra when the notification is received. This clearly impacts adversely on early engagement and particularly when DCS is used, because it prevents the Defence advocate being "invited" to access the papers. We are working with HMCTS and the Legal Aid Agency to find a solution. In the interim defence practitioners can assist by the prompt and accurate submission of Legal Aid applications and by contacting the court and CPS as soon as they know they are likely to be representing the defendant.

- Initially there were a few instances where the CPS did not complete the PTPH form before the first hearing in two of the Early Adopter courts, but the reasons for this have been resolved. However there were also a number of instances where the PTPH forms were not completed on time by defence practitioners. Improving this will help to ensure that the PTPH hearings run to time (which on average take approximately 20 minutes).

"Because it was the first week there were inevitable teething problems. However, overall I feel optimistic with regard to both BCM and DCS."

HHJ Twomlow, Merthyr Tydfil Crown Court

- The PTPH form can be cumbersome to complete, especially with multi-handed cases. As mentioned in the last newsletter (Issue 3), improvements are being made to the Digital Case System (DCS) to enable the PTPH form to be edited within the system. This improved functionality will be available in February 2016.
- There have been many cases where the prosecution have identified witness availability, but not for the period when the court could be expected to be setting trial dates.
- In some instances there have been difficulties with the Prison to Court Video Link (PCVL), resulting in serious interruptions to the court list. As a result, the Crown Courts at Woolwich and Isleworth have temporarily suspended PCVLs for the purposes of PTPHs. We are working to resolve these issues.
- For suggested security reasons there have been occasions where defence practitioners have not been permitted to take digital devices containing case papers into prisons. We are consulting with HMPS to clarify the type of devices that are permitted and will issue clarification once received.

Overall First Impressions

"At a time when the stresses and strains of practising in the criminal courts have never been greater, I have been very encouraged that advocates have been prepared to respond to the new initiative positively by rolling up their sleeves and trying to push it forward"

HHJ Kinch QC, Woolwich Crown Court

Next steps

The Early Adopter Courts will continue, with Leeds and Liverpool shortly conducting PTPHs. The Judicial Leads are working to ensure that the other Crown Courts are ready for implementation of BCM on **5 January 2016**. Further guidance will shortly be issued, most notably aimed at the magistrates' courts.

I am very grateful to all those who have worked so hard to make the initial start to BCM a success. I appreciate there is more to do, but with everyone's continued support and commitment I believe that full implementation in January will bring very positive results for all within the CJS.

I will update you on progress in my next newsletter, which will be circulated in the near future.

Lord Justice Gross

Senior Presiding Judge for England and Wales

Further Information

You must understand your obligations and new processes. It is essential that you are familiar with the following:

- [Judiciary website – Better Case Management](#)
- [Criminal Procedure Rules](#)
- [Case Management Practice Direction](#)
- [PTPH Form](#)