

## HARROW CROWN COURT

**From: HHJ John Anderson**

**26 August 2016**

### **RESPONSE TO SPJ's REQUEST RE: PTPH FORMS AND DCS**

1. As part of the SPJ's review of the PTPH form, on 19 July 2016 we were invited by HHJ's Edmunds QC, Menary QC and Collier QC to provide feedback as to the operation of the PTPH and DCS and as to what ought to be done. This response has now been provided to those parties.
2. Whilst generated and submitted by me, it is the result of consultation and a meeting of the Judiciary and Court staff at Harrow Crown Court and to which all here have had the opportunity to contribute.
3. The comments range wider than the PTPH but we have found the DCS and the PTPH to be inextricably linked.

### COMMENTS ON THE DIGITAL CASE SYSTEM.

1. **Display of information.**

#### Problem 1 - Finding numerous cases listed under one defendant's name.

Where a defendant has co-defendants, we would say that there should be only **one consolidated case.**

If other cases relevant to one defendant appear on the DCS and relating to the same allegation, our view is that the **only** material that such other cases should contain is defence statements, bail application material and correspondence that should not be seen by other defendants.

Also, it should be immediately clear to a Judge opening the DCS in a defendant's name which one is the consolidated case.

Further, access to consolidated cases needs to be given to all parties. There is often delay at hearings for advocates to be invited on to the system.

### ***Proposed Solution ?***

Re-briefing and closer monitoring/supervision of those uploading on to the DCS.

### Problem 2

Having selected a case, the first port of call should be the “Case Information” page in the grey section.

There is currently provision on that page for quite an amount of information, some of which is unnecessary - for example: *court room*.

There is unnecessary duplication in the use of space- for example:

- *custody*
- *custody time limits*
- *bail status*
- all of which could appear in one box.

Information is often inaccurately recorded in this section as well.

However there is no provision for recording what we regard as **the most important information that anyone, judge or otherwise, wishes to know at a glance which is:**

- trial date and time estimate
- date of PTPH
- date of stages 1 to 4,
- date the certificate of readiness is due from prosecution and defence
- date and purpose of FCMHs and PTR.

Absence of this information means a laborious search through the PTPH form, where it is well buried. See further on this below.

### ***Proposed Solution ?***

Re-design and operation of the Case Information page on the DCS.

## 2. **Agreed standard file structure**

(Grey section, left-hand margin.)

Aspects of non-compliance with this clear structure is a serious problem.

### Specific problems

It is a regular feature of most cases on the system that this section is in a mess through what appears to be redundant pages, sloppy filing, unnecessarily duplicated material, lack of attention to detail.

Problems include:

- The inclusion of redundant single header sheets.

For example, in *E1 - Charges, F1- Case Summary* more often than not a single header sheet for that section is unnecessarily included, providing nothing more than a title.

Also in section F in particular, it is very often a feature of the cases that the MG5, Case Summary is missing.

- Material filed in the wrong place or under the wrong section or heading.

This a serious problem indeed and involves random and illogical insertions of material in the wrong section and creation of hybrid sections, placed as well in the wrong order.

For example, *Section A* appearing but containing completely different information or appearing twice, but one of the sections containing inappropriate material.

- Duplication of material being filed.

As an example, it is very often the case that there will be numerous PTPH forms (in one case up to 17 !) some out of date, some are simple duplication of others, with no indication as to which is the definitive form.

Same applies to many witness statements.

Stray forms being filed in the wrong section, for example a remand order contained within section S for PTPH forms.

PTPH forms appearing in the correct section but then also unnecessarily duplicated in incorrect sections.

We see all of these particulars as a filing problem – plain and simple.

***Proposed Solution ?***

Re-briefing and closer monitoring/supervision of those uploading on to the DCS.

**3. Section S - PTPH.**

a) When the PTPH has been completed, we see no need for the PTPH form completed by counsel before the hearing, to appear subsequently in the grey section list. It should be deleted.

There only ever should be **one PTPH form in the DCS.**

Further it is often the case that the finished PTPH form is incorrectly filed for, for example in *Section X, Judges Orders and Directions.*

***Proposed Solution ?***

Re-briefing and closer monitoring/supervision of those uploading on to the DCS.

**COMMENTS ON THE PTPH FORM**

**4. PTPH forms.**

a) The forms are not being completed as they should be in advance of the PTPH, the prosecution 5 working days beforehand, the defence 2 working days beforehand.

It is rare to see anything from the defence until the morning of the hearing and then pretty close to it.

The same applies to the prosecution information, save for the welcome situation where a conscientious in-house advocate has gripped the problem.

Often the DCS will be littered with different PTPH forms completed by prosecution and defence.

**There should only ever be one.**

**The protocol is not being followed by those who should be populating the PTPH form in advance of the hearing.**

***Proposed Solution ?***

Re-briefing of prosecution and defence.

b) On the first page of both the blank pro forma form and the completed form as it appears having been saved by the Judge as a PDF following PTPH, we see that the vital information that was noted above should be recorded:

- trial date and time estimate
- date of PTPH
- date of stages 1 to 4,
- date the certificate of readiness is due from prosecution and defence
- date and purpose of FCMHs and PTR.

***Proposed Solution ?***

Re-design and operation of the PTPH form.

c) It is a regular feature that on page 1, for example in a single defendant case, unnecessarily there will be two boxes filled in for the same defendant's information as opposed to just one. More often than not, this unnecessary duplication continues throughout the form.

***Proposed Solution ?***

Re-briefing of prosecution and defence.

**d) Prosecution and defence information.**

Judges still do not appear to be insisting at PTPH on every detail of the parties contact information (save for trial counsel) being accurately recorded **there and then at the PTPH.** (Putting the case back if necessary).

This we see as the foundation of the DCS/PTPH. Without accurate information for communication between the parties, the case is faltering from the outset.

It is also troubling that the CPS seem to have lapsed once again into the practice of providing a single generic contact phone number and email address. It is resulting once again in unanswered emails and unanswered and unreturned calls left for example by the Case Progression Officer at the Court and the defence.

***Proposed Solution ?***

Re-briefing of judiciary, prosecution and defence.

e) **State of preparation, prosecution and defence.**

We see no purpose in the repetitive entries of “NaN, NaN, NaN, NaN,” on the right-hand side of the table.

*Proposed Solution ?*

Re-design and operation of the PTPH form.

f) **Witness requirements known at PTPH.**

This table should contain **only** those witnesses **required**.

It should not be just the complete list of witnesses in the case.

The judge should also insist on full and accurate completion of the information.

Considering that the defence are required to serve a **standard witness table** at stage 2, there would seem to be no necessity at this stage for entries concerning relevant disputed issue, the issue having been made clear on page 1 of the form.

*Proposed Solution ?*

Re-design and operation of the PTPH form.

g) **Witness requirements known at PTPH and judges witness orders that can be made at PTPH without further formality.**

This table could be conveniently incorporated into the previous (first) witness table.

There seems no reason for it to be a stand-alone table.

*Proposed Solution ?*

Re-design and operation of the PTPH form.

h) **Standard orders for witnesses.**

We question whether all of the material in italics on the right-hand side really is necessary ?

It is an awful amount of clutter.

Same comment applies to stages 1-4.

### ***Proposed Solution ?***

#### **Re-design and operation of the PTPH form.**

(i) When filling in the Stage dates, we wonder if the form may not be modified so as to bring the calendar at the date for Stage 1 when, for example, selecting the date for Stage 2 ?

#### **j) Actions by Judges and Court staff**

i) It should be standard procedure at every hearing that takes place before a judge that for the assistance of whomsoever conducts the next hearing, he or she records **fully** what has taken place in the Memorandum section.

This is not being done, or at least done carefully by all judges.

The aim should be that anybody new coming to the case need only look at the case information page to see immediately the current state of affairs.

ii) If a judge makes a series of orders at a hearing, we see the safest course as being for the judge to upload a copy of the orders on to Section X of the DCS and at the same time, note having done so in the “*widely circulated*” notes that appear on the Case Information page.

iii) Further, when Judges receive applications to be dealt with administratively to which they reply to Court staff, judges should record their decisions in the Memorandum section.

iv) In circumstances where, for example, the defence fail to comply with Stage 2, applications by the prosecution to “*rescind the date for Stage 3 compliance*” or the like are misplaced.

The correct remedy is for the prosecution to notify the Court of the failure, for the Court to chase, here in this example, the defence and to list for non-compliance if necessary.

#### **5. Chasing of compliance with completion of Stages 1-4 and Certificates of Readiness**

a) This is really not receiving the effective attention that it must, mainly because of communication difficulties with the parties by the Court Case

Progression Officer (for reasons set out above) and an acute need for more manpower assistance for that Officer.

b) We see that there must be positive checks that they have been received and if they are incomplete or just not received, the default after 1<sup>st</sup> enquiry of the parties should be to list the case generally for non-compliance.

c) The urgent need for more manpower assistance for the CPO is currently recognised at Harrow and it is understood that it is the intention that it will be provided soonest and training plans are in place.

d) The **real problem** however we feel is that the parties of prosecution and defence are not doing what they should do and on time. This in terms of the correct uploading of material on to the correct place on the DCS and the timely and effective completion of the Stages.

It is placing an enormous load on Court staff to have to chase what the prosecution and defence should by now be doing automatically.

***Proposed Solution ?***

***Re-briefing of judiciary, Court staff, prosecution and defence.***

***Manpower assistance to the Court Case Progression Officer (see above).***

6. A final observation regards the state of readiness of digital cases when listed for trial.

The position, shortly, is that currently we are seeing very little change from pre-DCS/PTPH.

One would have hoped for parties appearing to be far better prepared, with effective communications to have been taking place in the run up to trial.

That is not our experience.

It is our view that much of this stems, obviously, from the problems set out in Paragraph 5 above.

HHJ JOHN ANDERSON

26 August 2016