

North West Region

Guidance Note in Respect of Magistrate Courts Operations – Crime Jurisdiction

This guidance note has been drawn up in consultation with the Regional Leadership Magistrate, Bench Chairs from each Local Justice Area in the Region and has been approved by the Judicial Business Group. It lays out the current approach to Lockdown 3 and how the Magistrates Courts (crime) will operate.

It currently runs through until the end of March but is subject to review and change. It is important to note, that in respect of the Family jurisdiction, The President of the Family Division has issued a message outlining the approach to be taken: [Message from The President of the Family Division: The Road Ahead 2021](#)

The Lord Chief Justice issued a message on the 5th January 2021 at the beginning of the Lockdown: [Message from the Lord Chief Justice: latest COVID-19 restrictions | Courts and Tribunals Judiciary](#)

In that message it was made clear that steps needed to be put in place to utilise remote hearings more, to minimise footfall, and maintain a rigorous approach to social distancing and hygiene measures.

After the first lockdown, across the country the Magistrates Courts embarked upon a recovery programme that made significant inroads into the backlog of work. Whilst the courts are not currently returning to the way of working in Lockdown 1, action is necessary to reduce footfall. Maintaining business and keeping the courts functioning, does not mean Magistrates Courts are operating as 'Business as Usual'.

This guidance note outlines some initial steps to reflect the current situation. The push to recover the backlog which was in existence after the first Lockdown is not the current priority, maintaining the court service, in as covid safe an environment as possible, is the priority. These steps are to support the wellbeing of Staff and Judiciary and the Regional Leadership Magistrate, Bench Chairs and members of the Judicial Business Group are conscious of the impact the current situation is having.

Remote Hearings

As a result of the Lord Chief Justice's message, a process was agreed with the CPS in respect of using more CVP remote hearings for the prosecutors. In addition, Defence Firms have also started to request greater use of CVP for themselves or their clients (See **Annex A** for the agreed approach with CPS).

The approach outlined in Annex A is equally suitable for the other Court Users. NPS are introducing a similar approach to that agreed with the CPS i.e. block application in advance. Other parties to the Courts, for example Defence Firms should be encouraged to consider this approach.

With all remote hearings the party appearing remotely remains responsible for ensuring that they can present their case fully to the court. This is especially important with regards to evidence via video.

Reducing Footfall

Following the lockdown in March/April 2020, the Magistrates Courts returned to hearing as many cases as possible and across as many locations as were safe. Throughout the pandemic the Courts have operated as covid safe as possible and in accordance with all the Public Health England (PHE) guidance.

HMCTS continues to work with PHE and others to ensure we remain covid safe in the workplace. However, no matter how safe the environment may be, the current listings across the estate has meant the footfall is higher now than in previous months throughout May to October last year. The Courts are not operating the full capacity of courtrooms. Facilitating remote hearings does reduce the footfall but only by low numbers.

As a result, the Regional Leadership Magistrate, Bench Chairs and Judicial Business Group agree that for the period of any lockdown, listing volumes and capacity needs to be reviewed and managed to support a reduction in footfall.

Each area is different, the issues are different, each building is different and therefore decisions need to be made locally involving HMCTS management and the Judiciary in partnership. Partner Agencies and Court users will need to be kept informed if listings are to change. There is no one solution, however the following options are supported to reduce pressure on the magistrates' courts: -

Listing Solutions

- Reducing the size of GAP/ NGAP lists; A reduction of up to 20% from current listings is supported;
- Returning to single listings of trials in most Courts;
- Reducing the number of back-up trials in all day and multi day cases;
- Continue to sit benches of two, rather than three unless social distancing on the Bench and in the Retiring Room can be guaranteed;
- Concentrating on custody trials and priority cases (DA, youth etc);
- Adjourning some non-custody Priority 3 trials;
- Adjourning some non-essential Priority 3 work (For example: Fines Enforcement, LA enforcement and Planned Surrenders);
- If any work is de-listed and rescheduled it must be adjourned to a fix date in the court diary and not to any holding date or 'bucket list'.

Social Distancing and the Rules

- Greater vigilance and enforcement of **Hands-Face-Space** measures in the Courthouses. Numerous reminders have been issued over the previous months to staff, Magistrates, Court users etc that strict adherence to covid safety is crucial to minimising the risk of transmission. However, anecdotal examples of people not complying occur daily. **It is absolutely imperative** that everyone maintains their own safe space and maintains their observance of the current guidance;
- Face coverings. There have been previous messages about wearing face coverings. The NW Bench Chairs reiterate and support those messages and in addition wish to remind fellow Magistrates, Staff and Court Users of the following:
 - i. Face coverings are permitted in all the buildings and in all the courtrooms.
 - ii. When JPs and staff are moving around the building, from court to retiring room, in corridors, in lifts etc they **must** wear a face covering unless exempt. The same approach should be adopted by all Court Users. Indeed, for the public parts of the buildings it is a requirement to wear a face covering when moving through those areas.
 - iii. Inside the Courtroom face coverings **should** be worn. Whilst the Senior Judiciary have made it clear they can be asked to be removed, this should only occur to facilitate the hearings and ensure justice. If parties, staff, JPs etc wish to wear a

mask in the courtroom whilst cases are being heard this is permissible subject to that caveat.

- iv. Magistrates and Legal Advisers **must** wear face coverings when deliberating in a retiring room, unless the room is sufficiently large enough to maintain 2 metres social distancing at all times.
- The current guidance about 2 metres space remains. Everyone **must** take personal responsibility for maintain space. In addition, if JPs or Legal Advisers observe any party to proceedings and/ or public breaching the 2 metres, they should challenge the behaviour robustly;
 - Please continue to wash hands and use sanitiser frequently;
 - Staff and Magistrates are kindly reminded that they should be attending courthouses only in respect of official court business. Attendance for any social reason should not be occurring.



Keith Townend
NW Head of Legal Operations
15th January 2021

Annex A

This process has the support of the Presiding Judge Mr Justice Dove, Link DJ(MC), Regional Lead Magistrate and Bench Chairs. The process to be adopted is outlined below:

- 1. Each Thursday by 1pm CPS will send a list of applications to a designated local manager lead for CVP - identifying location/courtrooms/reasons for any court where CVP is being sought**
- 2. HMCTS will ensure the applications are considered by a member of the Judiciary i.e. DJ(MC)**
- 3. Each Friday by Noon the list will be returned to the CPS with the Judicial decision - Y/N**
- 4. CPS Lawyer must attend a pre court briefing at 9:30am which will include a test link**
- 5. Contingency if for any reason CVP fails on the day (having been approved) i.e. CPS will deploy to a courthouse**
- 6. CPS will issue comms to the Defence fraternity as it is only right, they understand a lawyer may not be physically present.**

Furthermore, it was agreed:

- In principle CVP is not ideal for Trial Courts, Youth Courts and the larger City based overnight remand lists;**
- Domestic Abuse (specialist lists) fell between the two and depended more on content than type;**
- All Courts/types are open to application – it is important that any reasons for CVP are clearly made out especially, if applying in youth or trials for a specific reason;**
- CPS would remind all prosecutors that when appearing on the CVP link from whatever location it is an extension of the Courtroom. Important not only dress but surrounding and conduct must maintain dignity of the Court.**