



NOTE ON LISTING IN MAGISTRATES' COURTS – COVID-19

1. The current Government Covid-19 emergency measures mean that unnecessary travel to and attendance at court of parties and witnesses, should be avoided if possible and, where appropriate, arrangements made for their participation in court proceedings through live video or audio link.
2. Flexibility and innovation will be needed to make the best use of the facilities currently available.
3. It will, however, sometimes be necessary for people to come to court. This is more likely to be the case in trials. HMCTS have taken steps to make sure that the courts are safe for the people who use them. Hearings will take place only where it is safe for them to do so.
4. The Criminal Practice Direction on Listing makes it clear that listing is a judicial responsibility and function (CrimPD XIII.A.1). Decisions as to which trials and other hearings are to be listed are for the judiciary. Listing decision will be made by judges in the usual way on a case-by-case basis by reference to all relevant factors and considerations.
5. As regards day-to-day operations, the Heads of Legal Operations will follow the guidance in this Note and any local directions given by the Presiding Judges of the circuit.
6. The attached list of priorities (Priority 1-3) sets out the categories of work which should currently be given priority and in what order. These categories are sequential: if there is no suitable Priority 1 work, then Priority 2 work (including trials) should next be considered, then Priority 3 (all other work).
7. When making listing decisions in relation to trials, judges will consider carefully whether suitable practical arrangements can be made to ensure the trial can, in fact, take place safely. This will involve consideration of a variety of factors including the type of case, the venue (*i.e.* whether there are suitable court buildings and court rooms available where proper social distancing can take place), the length of trial, the number of witness and witness handling facilities and available technology.
8. It will often be appropriate specifically to list cases for triage to consider:
 - (a) whether *in principle* the trial should be listed; and
 - (b) whether *in practice* all arrangements will be made to enable the trial to take place safely.
9. Whether it is appropriate to list a trial or case for hearing remains a matter for the Judge.

MAGISTRATES – PRIORITIES

Priority 1:

All custody cases, to include:

- Overnight custody cases from police stations (inc arrest warrants and breach of bail cases)
- Productions from prisons
- Arrest warrants issued under the Extradition Act
- Sentencing cases

Applications to extend custody time limits

In hours and out of hours terrorism applications

Civil applications relating to public health legislation, particularly under the Coronavirus (Emergency) Act 2020

Warrants of further detention (police and HMRC)

Closure order applications

Urgent applications for DVPOs

Urgent applications for rights of entry / search warrants

Priority 2:

Any trials or hearings in the following categories:

Any public health or coronavirus related prosecutions (inc breaches of restrictions or requirements imposed to protect public health, and other criminal activity designed to exploit the situation)

Sensitive/high profile cases and cases involving children and vulnerable witnesses/victims

Any serious and time-sensitive Youth Cases (e.g. where delay might mean a relevant age-threshold was crossed)

Custody trials

The following (highlighted in red) was AMENDED by the DSPJ on 7th July 2020

Breach of Community Orders, Suspended Sentences Orders, or Post Supervision Orders where

- 1. the offender poses a high risk of serious harm or poses any risk of harm to children or vulnerable adults;**

2. the breaches are of Sex Offenders (SO) and Domestic Abuse (DA) cases where there is not an identified immediate danger to the victim, but to prolong the prosecution may have a significant impact on wellbeing;
3. the offender has learning difficulties so that they may have difficulty in remembering events following Covid19 related delay;
4. orders that would normally be listed before a DJ because they fall within the high-profile category where there is significant press interest;
5. the case is sensitive because it involves orders and PSS following Covid- 19 prosecutions;
6. orders imposed for a Serious Sexual Offence;
7. the application is to amend for the purposes of managing risk of serious harm (including risk to children and vulnerable adults).

Priority 3:

All other work