



Senior Presiding Judge

THE RT. HON. LORD JUSTICE EDIS

20 March 2024

Rape Timeliness at Court

FAO: Presiding Judges, Resident Judges, Crown Court Judges, Heads of Crime and members of the Criminal Bar and their clerks

Dear all,

1. You will all by now be aware of the initiative to list, wherever possible before July 2024, cases involving allegations of rape that are more than two years old as at 31 December 2023. The backlog of cases has been examined and there are about 180 cases nationwide that have been identified. Of these, 140 already have dates in before the end of July 2024, whether fixed or floating. Others are listed shortly thereafter in September or October 2024. A small number are not listed or listed after 1 January 2025. Accordingly it is hoped that the initiative will affect only a small number of cases nationally. However it is unclear whether those cases with dates already before July were fixed with Counsel's availability in mind. For those cases the exercise will be to do everything which can be done to make that date effective, or to move the case to a date when it will be.
2. For this initiative to be a success, which we all owe to the public if we can achieve it, there will need to be communication, flexibility and cooperation on all sides. The judiciary are giving these cases priority because of their age and importance and are asking the Bar to prioritise them as well.
3. The proposal is that Circuit-wide listing meetings are held, with representatives from Chambers, Resident Judges and Listing Officers so that these cases can be discussed with a view to finding dates that are convenient to all parties. It is envisaged that prior to these meetings Listing Officers will identify for Chambers those cases which are to be considered and the available dates for the cases to be listed early so that early consideration can be given by all concerned in relation to the management of the cases. This will allow the Bar to consider the extent to which they can be flexible prior to the meeting in the spirit of

making the meetings as efficient as possible. It is recognised that there is a limited pool of qualified advocates able to do this work, and there are no guarantees sufficient Counsel will be available.

4. For those cases that have a fixture in the coming months the priority will be in confirming:
 - Trial Counsel is available;
 - The case has a fixed date, with a Judge and court identified with availability for the length of the trial
 - Disclosure is complete and the trial is ready;
 - Where counsel cannot commit to the existing date clerks will be encouraged to identify – if they can - suitable alternative counsel for the existing date.
5. For those cases currently fixed far into the future a new, earlier trial date will be identified. Instructed trial counsel's availability will be taken into account, and it is hoped that only in a rare case will a return of instructions have to be considered by Counsel and every effort will be made to ensure a case is not returned.
6. Everyone involved in criminal justice knows that those who undertake RASSO work do some of the most sensitive work at the Bar and are specialists in a difficult and complex field. They are working presently under more pressure than ever, and there is no desire to increase that pressure. At the same time it is clearly desirable that old cases are heard, and that the members of the public involved in these cases have their cases determined.
7. It is also acknowledged that this will only impact upon a single aspect of the delays which feature in the criminal justice system as a whole. Whilst this initiative should not detract from the efforts to improve all the component parts of the system, it is recognised that the cases which will fall into this initiative are ones that require a degree of priority.
8. We recognise that this initiative will only succeed with the Courts working together with the Bar and their clerking teams to try to find solutions and encourage that cooperation. Where Counsel cannot be found to undertake such cases, the Court will work collaboratively to find the first available date when the case can be covered by instructed Counsel and will understand that all concerned are doing their best in difficult circumstances to assist the court to fix these cases as soon as possible.
9. Alongside this initiative, the Senior Presiding Judge is also taking steps to ensure that current and future RASSO cases are not allowed to get as old as these cases. He has asked courts to ensure that these cases are given fixed dates at PTPH and are fixed with counsel's availability in mind. This may involve a date

somewhat further in the future than listing a case at risk that it will not get on, but the greater certainty should be welcomed by all concerned. Courts will also case manage the cases so that they are ready for trial by the first trial date. If counsel ensure that their availability is uploaded to the DCS before the PTPH this will assist in this effort.

Yours Sincerely,

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

Sam Townend KC
Chair of the Bar Council

Tana Adkin KC
Chair of the Criminal
Bar Association

Jaime Hamilton KC
Leader of the Northern Circuit

Jason Pitter KC
Leader of the North East Circuit

Michelle Heeley KC
Leader of the Midland circuit

Jo Martin KC
Leader of the Western Circuit

Leon Kazakos KC
Leader of the South Eastern Circuit

Caroline Rees KC
Leader of the Wales and
Chester Circuit