Judiciary of England and Wales

National Listing Framework

Guidance Note No. 1

Judicial Guidance on Listing Decisions at the Plea and Trial Preparation Hearing

September 2026

Contents

Judicial Guidance on Listing Decisions at the PTPH

This guidance is intended to assist judges in the practical application of Chapters 2 and 4 of the Practice Direction on Listing in the Criminal Courts (“the CrimPDL”), which takes effect on 1 October 2026. It is designed to support consistent and effective judicial decision-making under the National Listing Framework.

The guide is principally concerned with the decisions to be made at or before the Plea and Trial Preparation Hearing (PTPH). Many of those decisions will, however, need to be kept under review as a case progresses. The relevant considerations when reviewing listing arrangements later in the life of a case are addressed below.

This guide does not replace the CrimPDL and should be read alongside it.

Bench checklist

Before concluding the PTPH, or any subsequent hearing at which listing arrangements fall to be reviewed, ask:

☐ Has sufficient information been provided to enable informed listing decisions?

☐ Applying the core principle, what is the likely human impact of delay?

☐ Which Priority Tier most appropriately reflects that assessment?

☐ Should the trial ordinarily be listed as a Fixed Date (1F) or Flexible Date (2F)?

☐ Have the Priority Tier and listing type been clearly recorded?

☐ Would the case benefit from early reservation to a trial judge?

☐ Does the case require referral to the Resident Judge or Presiding Judge, or raise any judicial allocation or authorisation issue?

The Judge's task

At or before the PTPH, the parties must provide the information reasonably necessary for the court to determine the appropriate Priority Tier and listing arrangements (Ch4 §1(b)).

The judge should actively ensure that sufficient information has been obtained to enable informed listing decisions to be made. Where the information provided is inadequate, the court should require further information or give such directions as are necessary before finalising listing arrangements.

Having considered the information before the court, the judge should:

- allocate the appropriate Priority Tier (Ch4 §1(c));
- determine whether the case should ordinarily be listed as a Fixed Date (1F) or Flexible Date (2F) (Ch4 §§2–3);
- consider whether the case would benefit from early reservation to a trial judge (Ch4 §1(h));
- consider whether the case requires referral to the Resident Judge or Presiding Judge, or raises any judicial authorisation issue.

The Priority Tier reflects the likely human impact of delay on participants and the fairness of the proceedings. It does not automatically follow either the seriousness of the offence or its legal classification (Ch4 §1(d)).

The core principle

Every tier allocation is an application of the same core principle.

The court should determine the priority to be given to the case by reference to the likely human impact of delay and the fairness of the proceedings (Ch2 §4(a)).

The primary factors are those identified in Chapter 2 §4(b), namely:

- seriousness of the offence;
- remand in custody;
- children, vulnerability or accommodation needs;
- likely effect of delay upon safety, wellbeing or recovery;
- likely deterioration in the quality of evidence;
- any other circumstance likely to increase the human impact of delay.

The other considerations identified in Chapter 2 §5 also remain relevant. Where relevant considerations conflict, the court should ordinarily give priority to the factor which would minimise the adverse impact of delay on participants and the fairness of the proceedings, unless the interests of justice require otherwise.

Practical point: when considering a tier allocation it is often helpful to identify the principal factor or factors driving the decision. Doing so assists later review if circumstances change. This is good practice rather than a requirement to give reasons in every case.

The seven priority tiers

The tiers provide a structured means of translating the principles in Chapter 2 into listing priority. Their individual criteria should be applied in accordance with Chapter 4. Tier 1 in particular comprises two distinct routes, only one of which requires a finding of exceptional impact.

Tier 1 (Ch4 §1(f)(i))

Either:

- any case involving a death; or
- any case where delay is likely to have an exceptional impact on a participant, or on the fairness of proceedings, by reason of exceptional vulnerability (Ch4 §1(g)(i)).

The exceptional-impact threshold applies only to the vulnerability route. A case involving a death is Tier 1 without any separate finding of exceptional impact being required.

Tier 2 (Ch4 §1(f)(ii))

Any case where any one or more of the following applies:

- the evidence depends on the recollection of lay witnesses, including complainants or other witnesses who may be traumatised;
- there is a serious risk that delay will adversely affect the quality of the evidence;
- delay is likely materially to affect a defendant's or witness's ability to participate effectively in the proceedings, including where an intermediary may be required;
- it is likely that a witness will be required to travel from abroad;
- there is likely to be significant contested expert evidence;
- the time estimate exceeds 5 days.

The criteria are alternatives: the presence of any one is sufficient to bring the case within Tier 2. They should therefore be applied as the defined criteria in the CrimPDL, rather than as examples of a separate general "material adverse impact" test.

Tiers 3–7

- Tier 3 — cases involving lay witness evidence which do not fall within another tier (Ch4 §1(f)(iii)).
- Tier 4 — cases relying only, or predominantly, on police, investigator or documentary evidence, or otherwise suitable for shorter trial management (Ch4 §1(f)(iv)).
- Tier 5 — High Court Judge cases (Ch4 §1(f)(v)).
- Tier 6 — Terrorism Cases List (Ch4 §1(f)(vi)).

- Tier 7 — Economic Crime List (Ch4 §1(f)(vii)).

Where more than one tier appears applicable, the highest applicable tier should ordinarily be allocated, save that Tiers 5–7 apply irrespective of any other characteristic (Ch4 §1(g)(vii)).

Tier 1 and vulnerability

This section concerns the vulnerability route into Tier 1 only; a case involving a death is Tier 1 without more (see Section 3).

Tier 1 on this route is deliberately reserved for the relatively small number of cases where delay would have an exceptional impact upon a participant or upon the fairness of proceedings (Ch4 §1(g)(i)).

The question is not simply whether a participant is vulnerable, but whether the likely consequences of delay are exceptional.

Judges may find it helpful to ask:

- What is it about the participant's vulnerability which makes the likely impact of delay exceptional?
- Is delay likely to have an exceptional impact on that participant or on the fairness of the proceedings?
- Would Tier 2 adequately reflect the impact of delay in this case?

Sexual offence cases

Cases involving allegations of sexual offending will ordinarily fall within Tier 2. That reflects the generally significant impact which delay is likely to have upon complainants and witnesses (Ch4 §1(g)(ii)).

Judges should not allocate a case to Tier 1 solely because it involves sexual offending or because the complainant has been traumatised by the alleged offence (Ch4 §1(g)(ii)).

That ordinary starting point does not displace consideration of the actual features of the case. Where the evidence is predominantly documentary or digital, or delay is not likely materially to affect any complainant or witness, allocation to Tier 3 or Tier 4 may be appropriate (Ch4 §1(g)(iii)).

Other tier boundaries

Judges should also bear in mind that:

- remand in custody or the existence of a custody time limit does not of itself determine either the Priority Tier or the choice between Fixed Date and Flexible Date (Ch4 §1(g)(iv));

- the appointment of an intermediary does not automatically require Tier 2; the question is whether delay is likely materially to affect that person's ability to participate effectively (Ch4 §1(g)(v));
- Tier 3 remains the ordinary category for cases involving lay witness evidence which do not fall within another tier (Ch4 §1(g)(vi));
- a case is not to be given reduced priority merely because a witness's cross-examination has been pre-recorded under section 28 of the Youth Justice and Criminal Evidence Act 1999; such cases continue to be managed and listed by reference to the human impact of delay (Ch4 §5);
- the prosecutor must draw any applicable custody time limit to the court's attention at every hearing prior to trial, and it must be recorded on the court record (Ch4 §13(a)).

Trial estimates

An accurate trial estimate is an important part of the listing decision. The estimate should be realistic and should make appropriate allowance for any legal argument, examination and cross-examination of witnesses, judicial directions or summing up, and jury deliberation. Where appropriate, the judge should test the estimate with the parties rather than simply adopting the figure provided. The estimate should reflect the time genuinely required for the trial and should not simply be rounded to fit available diary capacity.

The parties should be reminded, where appropriate, of their obligation to notify the court promptly of any material change.

Fixed Date or Flexible Date

The ordinary starting point is:

- Tiers 1, 2, 5, 6 and 7 — Fixed Date (1F).
- Tiers 3 and 4 — Flexible Date (2F).

The court may depart from those starting points where the interests of justice require, including where an alternative listing would achieve a materially earlier trial date and is otherwise suitable (Ch4 §3(b)). Where a departure is made, it will usually be helpful to identify briefly the reason for doing so.

A Fixed Date is a specific date where, at the time of listing, there is a high level of confidence that a court and judge will be available to commence the trial. A Flexible Date is a listing where, at the time of listing, there is a reasonable expectation that the trial can be accommodated within the identified period, having regard to available court capacity.

Priority Tier guides the priority and manner of listing, but does not give a case an automatic right to displace another trial already listed. Where accommodating one case would require another to be moved, the court should make that decision afresh in accordance with the CrimPDL, having regard to the human impact of delay, the fairness of the proceedings and the other relevant circumstances in both cases.

Live link participation

The operative edition of the Lady Chief Justice's Live Links in Criminal Courts Guidance must be followed; the presumptive framework it sets out applies unless the court directs otherwise in an individual case (Ch2 §8(a)-(b)).

In determining listing arrangements, the court should have regard to the availability and appropriate use of live link participation, including whether its use would be consistent with the effective participation of all parties and the interests of justice (Ch2 §8(c)).

Early reservation

The court should give active consideration to whether the case would benefit from early reservation to a trial judge (Ch4 §1(h)).

Early reservation is likely to be particularly valuable in:

- Tier 1 and Tier 2 cases;
- cases involving substantial case management;
- lengthy or legally complex trials.

Review of listing decisions

The Priority Tier allocated at the PTPH is based upon the information then available. It is not immutable.

When a case returns before the court, the judge should consider whether any material development since the previous hearing requires the Priority Tier or listing arrangements to be reconsidered (Ch4 §1(i)).

Examples include:

- significant changes to the trial estimate;
- new disclosure issues;
- deterioration in witness availability;
- new or changed participation needs, including intermediary arrangements;
- changes in custody status;

- developments affecting the fairness of the proceedings.

Delay occurring after the PTPH is itself capable of increasing the human impact of delay and may justify a revised allocation (Ch4 §1(j)). The same core principle applies where listing arrangements are reviewed at a later hearing, including on an application to vary a trial date (Ch4 §9) or where a trial is not reached (Ch4 §10).

Transitional arrangements

For cases already in the system on 1 October 2026:

- existing trial listings should be treated as Fixed Date or Flexible Date listings, as appropriate (Ch1 §5(a));
- where no Priority Tier has previously been allocated, tier allocation must be considered at the next hearing at which the case comes before a judge after commencement (Ch1 §5(b)). There is no requirement for a wholesale retrospective exercise to allocate Priority Tiers to all existing cases;
- commencement of the CrimPDL does not of itself require existing trial dates to be revisited, nor should currently listed work be displaced simply because another case is allocated to a higher Priority Tier. Existing listings should remain in place unless there is a proper reason for the court to reconsider them;
- where a fresh listing decision is required, that decision should be made in accordance with the CrimPDL. If accommodating a case in a higher Priority Tier would require another listed case to be moved, the court should consider the human impact of delay and the fairness of the proceedings in both cases, together with the other relevant considerations under Chapter 2; and
- all new listing decisions made on or after 1 October 2026 must comply with the CrimPDL.

Issued as part of the National Listing Framework implementation programme.