



**Judiciary of
England and Wales**

National Listing Framework

Guidance Note No.5

Guidance for Practitioners

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Guidance for Practitioners

This note is intended to assist prosecution and defence practitioners in the practical application of the Practice Direction on Listing in the Criminal Courts ("CrimPDL"), which takes effect on 1 October 2026.

It concentrates on the Crown Court provisions most likely to affect practitioners. It does not replace the CrimPDL, the Criminal Procedure Rules or the Criminal Practice Directions. Practitioners should also be familiar with the Court Listing Plan for the Crown Court centre at which they appear, once that Plan has been approved and published.

The CrimPDL places particular emphasis on the human impact of delay, accurate and timely information, realistic trial estimates, readiness, and early identification of any change which may affect listing. The effective operation of the new arrangements therefore depends upon practitioners giving the court the right information at the right time.

What practitioners need to know

The principal changes affecting Crown Court practitioners are:

- every Crown Court trial case is allocated to a Priority Tier;
- every Crown Court trial is listed as either a Fixed Date or Flexible Date trial;
- priority is determined by the human impact of delay, not simply by offence type, seriousness or custody status;
- the parties must identify relevant priority factors at the earliest opportunity, provide realistic time estimates and promptly notify material changes affecting listing;
- the run-up to the trial week is structured around the Advance List, Case Progression Meeting, Firm List and Daily List;
- there is a stronger emphasis on trial readiness and Certificates of Trial Readiness;
- a Fixed Date at risk of not being reached is subject to review;
- a trial not reached for lack of court time must return before a judge and cannot simply be re-listed administratively; and
- a trial date, once fixed, must not be varied without good reason.

The former terms "backer", "floater", "fixed floater" and "priority floater" are no longer used.

The parties' responsibilities

The CrimPDL imposes three continuing responsibilities on the parties (Ch2 §6):

- identify, at the earliest opportunity, any factor relevant to priority;
- provide realistic time estimates; and
- promptly notify the court of any material change affecting listing.

These duties do not end at the PTPH. If circumstances change later in the life of the case, the court must be told promptly so that any Priority Tier or listing decision can be reviewed where necessary.

Practitioners should not wait until a pre-trial hearing, the Firm List or the trial date to raise a problem which has become apparent earlier.

Before and at the PTPH

Prior to, or at, the PTPH the parties must provide the information reasonably necessary to enable the judge to determine the appropriate Priority Tier and listing arrangements (Ch4 §1(b)).

Practitioners should be ready to address:

- the factors relevant to the human impact of delay;
- the likely effect of delay on any victim, witness or defendant, including vulnerability, wellbeing, participation and the quality of evidence;
- whether any witness is likely to travel from abroad;
- whether an intermediary, interpreter, special measures or section 28 arrangements are required;
- whether significant contested expert evidence is likely;
- the realistic trial estimate;
- the availability of witnesses and any significant availability issue already known;
- custody status and any applicable custody time limit;
- whether judicial continuity would materially assist the management or trial of the case; and
- any other feature which may affect the appropriate listing arrangements.

The judge will allocate the Priority Tier and decide whether the trial should be Fixed Date or Flexible Date. The judge must also consider whether the case would benefit from early reservation to a trial judge (Ch4 §1(h)).

Priority Tiers

The Priority Tier guides both the priority of the case for listing and the manner in which it is listed. It reflects the likely human impact of delay and the effect of delay on the fairness of the proceedings. It does not necessarily correspond to the seriousness or legal classification of the offence (Ch4 §1(d)-(e)).

The tiers are:

Tier 1 - any case involving a death; or a case in which a victim, witness or defendant is highly vulnerable and delay is likely to have an exceptional impact on a participant or the fairness of the proceedings.

Tier 2 - cases meeting one or more of the specified criteria, including reliance on the recollection of lay witnesses, serious risk to the quality of evidence from delay, material impact on effective participation, witnesses travelling from abroad, significant contested expert evidence, or a trial estimate exceeding five days.

Tier 3 - cases requiring lay witness evidence which do not fall within another tier.

Tier 4 - cases relying only or predominantly on police or other investigator evidence or documentary evidence, or which are otherwise suitable for shorter trial management.

Tiers 5, 6 and 7 - cases allocated respectively to a High Court Judge, the Terrorism Cases List or the Economic Crime List.

Some points are particularly important:

- seriousness alone does not determine the tier;
- custody or a custody time limit does not of itself determine the tier or whether the trial should be Fixed Date or Flexible Date;
- the need for an intermediary does not of itself require Tier 2;
- sexual offence cases will ordinarily fall within Tier 2, but the actual features of the case must still be considered; and
- if a factor becoming known after the PTPH may affect the Priority Tier, the parties must draw it to the attention of the court (Ch4 §1(i)).

Delay beyond that contemplated at the PTPH is itself an additional factor when priority is reconsidered (Ch4 §1(j)).

Human impact of delay

The core listing principle is the impact of delay on participants and the fairness of the proceedings - the "human impact of delay" (Ch2 §4).

The court must have regard in particular to seriousness, custody, whether a victim, witness or defendant is a child or otherwise vulnerable or requires accommodations, the likely effect of delay on safety, wellbeing or recovery, the likely effect on the quality of evidence, and any other circumstance likely to increase the human impact of delay.

Practitioners can assist by giving the court specific information rather than relying on labels. For example, if it is said that delay will have a material impact on a witness, the court should be told why. If a defendant has particular participation needs, the practical effect of delay should be identified. If witness memory or availability is likely to deteriorate, that should be explained.

The purpose is not to invite lengthy submissions in every case. It is to ensure that any feature which genuinely affects the priority of the case is identified early and accurately.

Fixed Date and Flexible Date trials

All Crown Court trials are designated either Fixed Date (1F) or Flexible Date (2F) (Ch4 §2).

Fixed Date - a trial listed for 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 on that date.

Flexible Date - a trial where, at the time of listing, there is a reasonable expectation that it can be accommodated within an identified period, having regard to available court capacity.

A Flexible Date may operate in one of two ways: the case may be listed for a specified date with the expectation that, if not reached that day, it will be accommodated within one or two days and in any event within the same week; or it may be callable at any time during a defined period not exceeding one week. The Court Listing Plan will state which approach is used at the centre.

As far as practicable, a Flexible Date case should be assigned a specific trial start date at least two weeks before the beginning of the listing period.

The ordinary position is that Tiers 1, 2, 5, 6 and 7 are Fixed Date, while Tiers 3 and 4 are Flexible Date. The court may depart from that position where the interests of justice require it, including where a different arrangement permits a materially earlier suitable trial date.

Practitioners should therefore avoid treating the Priority Tier and listing type as interchangeable. A tier guides the listing decision; it does not mechanically dictate the outcome in every case.

Trials listed against the same capacity

The CrimPDL permits more than one case to be listed against available trial capacity where appropriate, including through Flexible Date listings (Ch4 §4).

Where that occurs, the court must have regard to the human impact of delay, the likelihood of cases resolving or becoming ineffective, and the impact on victims, witnesses, defendants and advocates if a case is not reached. The parties must be informed clearly of the nature of the listing, arrangements should identify in advance where possible which case will proceed, and unnecessary attendance should be minimised.

A practitioner instructed in a Flexible Date case should therefore establish from the court's listing arrangements:

- the identified listing period and, when available, the specific start date;
- whether the case is listed against shared capacity;
- what notice is likely to be given of the case proceeding; and
- how the court wishes to receive information or representations if circumstances change.

A Flexible Date is not an indication that the case is unimportant or not expected to proceed. The parties must prepare the case so that it can proceed within the listing arrangements made by the court.

Trial estimates

Accurate trial estimates are critical to the new listing arrangements (Ch2 §7).

The parties must provide realistic estimates at the earliest opportunity when requested, keep them under review, notify material changes promptly, and manage the case so as to conclude within the estimate or any timetable set by the court.

Trial estimates must be expressed in court days, half-days or hours. They must include a realistic allowance for jury deliberation and any other time necessary for the proper conduct of the hearing, including judgments. Where required, the parties must also provide estimated durations for examination-in-chief and cross-examination.

In practical terms, practitioners should take account of:

- the number of defendants and witnesses;
- legal argument and admissibility issues;
- expert evidence;
- interpreters and intermediaries;
- section 28 playback and other special measures;

- live-link arrangements;
- unrepresented defendants or other participation issues;
- summing up and jury deliberation; and
- any other feature likely materially to affect the length of the trial.

An estimate should not be increased simply to create a margin for convenience. Equally, an unrealistically short estimate risks the case being placed into unsuitable capacity and may have consequences for other cases and court users.

Keeping the court informed after the PTPH

The parties must promptly notify the court of any material change affecting listing. This includes any change relevant to priority, readiness or the practical arrangements for the hearing.

Examples may include:

- a significant change in the trial estimate;
- a new or changed vulnerability or participation issue;
- a witness becoming unavailable, seriously unwell or requiring different arrangements;
- a new intermediary, interpreter or special measures requirement;
- a significant expert evidence issue;
- a material disclosure or preparation problem which may affect readiness;
- a change affecting a custody time limit;
- a realistic prospect of a guilty plea or other resolution; or
- a material advocate availability issue.

The fact that a matter may ultimately require a judicial decision is not a reason to delay notifying the court. Early information gives the court the best opportunity to manage the problem without unnecessary disruption.

Readiness and Certificates of Trial Readiness

A case must not be listed for trial unless it is ready or is expected to be ready by the trial date (Ch4 §6). Each Crown Court centre must have a system for directing the service and efficient review of Certificates of Trial Readiness.

The prosecution and defence should complete readiness information accurately and identify any outstanding issue candidly. A certificate should not merely record that a case is "ready" if a known matter presents a real risk to the effectiveness of the trial.

If an issue arises after a Certificate has been served, it should be reported promptly. The purpose of the readiness process is to identify problems early enough for them to be resolved, or for judicial directions to be sought where necessary.

The run-up to the trial week

The CrimPDL provides a structured process as the trial week approaches (Ch4 §7):

Four weeks before - Advance List. The court publishes the trials and, so far as practicable, other hearings expected in the trial week.

Third week before - Case Progression Meeting. Court listing or case progression staff review readiness and likely effectiveness. The meeting must include the CPS or other relevant prosecutor and the Witness Care Unit, and must take account of Certificates of Trial Readiness and any representations from the defence or other interested parties.

Two weeks before - Firm List. The court publishes the trials and, so far as practicable, other hearings to be listed in the trial week.

Day before - Daily List. A draft and final list are published. The Daily List indicates whether each trial is "to be heard only in this courtroom" or "may be heard in another courtroom".

The Court Listing Plan will identify the day and time of the Case Progression Meeting and explain how parties may engage with or provide information to it. The court may also provide for defence representatives or other interested parties to attend where that would assist.

Practitioners should make any representations in response to the Firm List or Daily List promptly and by the route identified in the Court Listing Plan.

Case Progression Meeting - practical points for practitioners

The Case Progression Meeting is not intended to replace judicial case management or to determine disputed applications. Its purpose is to identify readiness and effectiveness issues sufficiently early for appropriate action to be taken.

The prosecution should ensure that the information available to the meeting is current, including witness warning and availability, readiness, outstanding evidence or disclosure issues, special measures, section 28 arrangements, custody time limits and any realistic prospect of resolution.

Defence practitioners should use the route specified in the Court Listing Plan to identify any material readiness or listing issue which the meeting should take into account. Where attendance is permitted or invited, it should be used to provide practical information rather than to argue a disputed application which requires judicial determination.

If the meeting identifies a matter requiring a judicial decision, that matter should be referred to a judge through the appropriate route.

Fixed Date trials at risk of not being reached

Where a Fixed Date is at risk of not being reached, the court must consider whether a hearing is required to review the listing (Ch4 §8). The court must have regard to the human impact of delay and the other Chapter 2 considerations.

Practitioners should provide any information needed to allow the court to assess the consequences of maintaining or changing the listing, including witness and defendant circumstances, availability, readiness, the trial estimate and any other relevant priority factor.

A Fixed Date may be maintained where the court is satisfied that the case can be accommodated within its estimated duration or within a short period thereafter. It should not be maintained where doing so is likely to cause a material adverse impact on participants or the fairness of the proceedings.

Applications to change a trial date

A trial date, once fixed, must not be varied without good reason (Ch4 §9).

The court must consider the human impact of delay, the priority of the case, and the effect of any change on victims, witnesses and defendants.

The unavailability of an advocate will not normally justify a change if suitable alternative representation can reasonably be arranged without causing unfairness.

A Listing Officer may agree a consensual variation only in circumstances determined by the Resident Judge and where the change will not result in undue delay. In all other circumstances the application must be determined by a judge at a hearing.

At any such hearing, the parties must be able to provide:

- the relevant priority factors and the likely impact on the defendant and witnesses of moving the trial; and
- the availability of witnesses, defendants and advocates so that an alternative date can be identified.

Agreement between the parties does not, by itself, entitle them to move a trial date.

Trials not reached

Where a trial is not reached because of lack of court time, it must be listed before a judge for further directions and cannot simply be re-listed administratively (Ch4 §10).

At that hearing, the parties must provide information about their availability and the relevant Chapter 2 matters. The court must reconsider priority and whether the case should be given a Fixed Date. A Flexible Date trial not reached within its listing period should, so far as practicable, be given a Fixed Date when re-listed.

Practitioners should therefore attend a relisting hearing equipped with realistic availability information and with any information needed to explain the consequences of further delay.

Priority does not operate as an automatic 'bumping' system

A higher Priority Tier does not automatically displace another case already listed. The tier guides the court's listing decision, but any decision to move existing work remains a judicial listing decision to be made under the CrimPDL.

If accommodating a higher-priority case would require another case to move, the court must consider the human impact of delay and fairness in the affected cases, together with the other relevant Chapter 2 considerations. Practitioners should therefore avoid presenting tier allocation as creating an automatic entitlement to displace another trial.

This is particularly important during implementation. The commencement of the CrimPDL does not require all existing trial dates to be revisited simply because cases would fall into different Priority Tiers under the new Framework.

Existing cases from 1 October 2026

The CrimPDL applies to cases already pending on 1 October 2026. Existing trial listings using terminology replaced by the CrimPDL are to be treated as Fixed Date or Flexible Date listings, as appropriate (Ch1 §5(a)).

Where an existing case has not already been allocated a Priority Tier, 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 exercise to revisit every existing case simply to add a tier.

New listing decisions made after commencement, and any existing listing which properly comes back before the court for reconsideration, must be dealt with under the CrimPDL.

Custody time limits

At every hearing before trial, the prosecutor must draw any applicable custody time limit to the attention of the court (Ch4 §13).

Cases subject to custody time limits may be Fixed Date or Flexible Date. The court and the parties must keep them under review and take the necessary steps to ensure compliance with the applicable limit. Any application relating to a custody time limit must be listed urgently.

Practitioners should not assume that custody or the existence of a CTL determines the Priority Tier. It is an important factor in the human impact of delay, but the tier and listing type remain case-specific judicial decisions.

Court Listing Plans and communication with the court

Each Crown Court centre must publish a Court Listing Plan. For practitioners, the Plan will be an important practical document. It will explain:

- the centre's approach to Fixed Date and Flexible Date listings;
- which form of Flexible Date listing is used;
- the arrangements for the Advance List and Firm List;
- the day and time of the weekly Case Progression Meeting;
- how parties may engage with or provide information to that meeting;
- the best contact information for court users; and
- how the court engages with practitioners and other court users.

Practitioners should use the communication routes identified in the Plan. Important listing information should be provided promptly and through the route which enables it to reach the listing or case progression team and, where necessary, the judge.

Practical summary

At the PTPH: identify the real priority factors; give a realistic trial estimate; identify witness, participation and availability issues; address Fixed/Flexible Date listing and, where appropriate, judicial continuity.

After the PTPH: keep priority, readiness and the trial estimate under review and notify material changes promptly.

Four to two weeks before trial: check the Advance and Firm Lists; ensure readiness information is current; use the Court Listing Plan route to make any necessary representation to the Case Progression Meeting or listing team.

If a problem develops: tell the court early. Do not wait for the trial date simply because the matter may require a judicial decision.

If seeking to move a trial: be ready to explain why there is good reason, the impact on participants, and realistic alternative availability.

If a trial is not reached: be ready at the judicial relisting hearing with availability and updated priority information.

Throughout: use the national terminology, provide accurate information, and remember that the purpose of the CrimPDL is to minimise the human impact of delay, promote fairness and make fair and efficient use of available court resources.

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