

**DEPLOYMENT AND ALLOCATION IN CRIMINAL CASES
IN CLASS 1, 2 and 3**

GUIDANCE FOR ALL RESIDENT JUDGES

General Responsibilities

1. The Presiding Judges are responsible for the overall deployment of the judiciary and allocation of cases on their Circuit.
2. The protocol setting out the Responsibilities of Resident Judges and Designated Civil and Family Judges (July 2004) makes clear that the Resident Judge has the general responsibility, subject to the guidance of the Presiding Judges, within his court centre for the allocation of criminal judicial work, to ensure the just and efficient despatch of the business of the court or group of courts. This includes the overseeing of the deployment of allocated judges at the court or group, including the distribution of work between all the judges allocated to that court.
3. This guidance is issued under Paragraph IV.33.7 of the Consolidated Practice Direction, by the Senior Presiding Judge and the Presiding Judges. It intended to provide guidance for Resident Judges and their listing officers about:
 - (a) cases which must be referred to a Presiding Judge for release; and
 - (b) cases which must be referred to the Resident Judge before being assigned to a Judge or Recorder to hear.

It is applicable to all Crown Courts, but its application at certain Crown Courts may be modified by the Presiding Judges, with the approval of the Senior Presiding Judge, through the provision of further specific guidance applicable to such Crown Courts as are identified in the further guidance.

4. Cases which do not come within (a) or (b) are not specifically covered by this Guidance, but are subject to the directions given to the Listing Officer by the Resident Judge at each centre.
5. This Guidance does not seek to prescribe the way in which the Resident Judge gives directions as to listing policy to the listing officer; its purpose is to ensure that there is appropriate judicial control over the listing of cases specified in this Guidance.
6. In view of the changes effected to this Guidance in respect of Class 2 cases, it is essential that the Resident Judge nominates a judge to act on his behalf and discharge his responsibilities when he is away.

PART I: CASES TO BE REFERRED TO A PRESIDING JUDGE

(a) All class 1 cases.

7. All class 1 cases must be referred to a Presiding Judge.

The offences in class 1 are set out in paragraph 21.1 of the Consolidated Practice Direction

- (a) Misprision of treason and treason felony;
- (b) Murder;
- (c) Genocide;
- (d) Torture, hostage-taking and offences under the War Crimes Act 1991;
- (e) An offence under the Official Secrets Acts;
- (f) Manslaughter;
- (g) Infanticide;
- (h) Child destruction;
- (i) Abortion (section 58 of the Offences against the Person Act 1861);
- (j) Sedition;
- (k) An offence under section 1 of the Geneva Conventions Act 1957;
- (l) Mutiny;
- (m) Piracy;
- (n) Soliciting, incitement, attempt or conspiracy to commit any of the above offences.

(b) All cases expected to last more than four weeks and all serious fraud cases as defined by the Lord Chief Justice in 1998.

8. All cases expected to last four weeks or more. If there are serious fraud cases (as defined by the Lord Chief Justice in 1998) that are estimated to last less than this, they must also be referred.

(c) Sensitive or complex rapes or other sexual offences

9. The Resident Judge must refer to the Presiding Judges all cases involving rape or other sexual offences which are of especial sensitivity or likely to attract publicity such as those involving well known persons or circumstances of particular difficulty or notoriety or serial cases. Paragraph 12 sets out the cases which must be referred to the Resident Judge and paragraph 14 sets out the procedure for assignment by the Resident Judge of Judge who is to try such cases without reference to the Presiding Judge.

(d) Terrorist and firearms cases

10. Cases involving explosives, terrorism or the actual discharge of firearms in the course of another crime must be referred to a Presiding Judge. Resident Judges should also refer the more serious cases of possession of firearms, especially where possession is in the context of robbery or other serious crime.

PART II: CASES TO BE REFERRED TO THE RESIDENT JUDGE

(a) All cases referred to a Presiding Judge

11. All cases under paragraphs 7- 10 above which are required to be referred to a Presiding Judge must in the first instance be referred to the Resident Judge.

(b) Rape and other sexual offences

12. All sexual offences (and not merely those in class 2) must be referred to the Resident Judge who may deal with them, in accordance paragraph 14 without reference to the Presiding Judge, save in the circumstances specified in paragraph 9.

(C) Firearms, death by dangerous driving arson and other cases.

13. The following further classes of case must be referred to a Resident Judge:
- (a) All cases involving firearms or imitation firearms.
 - (b) Cases involving causing death by dangerous or careless driving.
 - (c) Arson
 - (d) Kidnapping and false imprisonment.
 - (e) Cases where any defendant is under 18.
 - (f) Any case which appears to raise particularly complex, sensitive or serious issues.

PART III: PROCEDURE

14. The Resident Judge must arrange with the Listing Officers a satisfactory means of ensuring that all cases listed at their court are listed before judges or recorders of suitable seniority and experience, subject to the following:

(a) In the case of any case referred to the Presiding Judge where the Presiding does not assign the judge who is to try the case, then the assignment of the judge must be made by the Resident Judge. The time at which the assignment is made is at the discretion of the Resident Judge.

(b) In all rape cases and other sexual offences falling within class 2 (as set out in the Consolidated Practice Direction), the judge who is to try the case must be assigned by or under the direction of the Resident Judge. The time at which the assignment is made is at the discretion of the Resident Judge. The judge who is assigned to try the case must have been authorised to try Class 2 cases. It is a condition of the authorisation that it does not take effect until the judge has attended the relevant JSB course; the Resident Judge should check in the case of newly authorised judges that they have attended the course. Class 2 cases are (as defined in the Consolidated Practice direction):

- (a) Rape;
- (b) Sexual intercourse with a girl under 13;
- (c) Incest with girl under 13;
- (d) Assault by penetration;
- (e) Causing a person to engage in sexual activity, where penetration is involved;
- (f) Rape of a child under 13;
- (g) Assault of a child under 13 by penetration;
- (h) Causing or inciting a child under 13 to engage in sexual activity, where penetration is involved;
- (i) Sexual activity with a person with a mental disorder, where penetration is involved;
- (j) Inducement to procure sexual activity with a mentally disordered person where penetration is involved;
- (k) Paying for sexual services of a child where child is under 13 and penetration is involved;

- (l) Committing an offence with intent to commit a sexual offence, where the offence is kidnapping or false imprisonment;
 - (m) Soliciting, incitement, attempt of conspiracy to commit any of the above offences.
- (c) The following offences, save in exceptional circumstances specifically authorised by the Resident Judge, should also be tried by a judge authorised to try class 2 cases who is assigned to try the case by the Resident Judge; all serious sexual offences these will include all of the following categories of case:
- Cases of buggery with a person under 16.
 - all cases of serious cases of indecent assault and indecency, especially those involving children or vulnerable complainants whether under the 2003 Act or otherwise;
 - unlawful sexual intercourse with young girls; indictable-only offences under the 2003 Act - see ss.9 and 25;
 - cases involving breach of trust - see ss.38-41;
 - any other cases which are potentially sensitive .
- (d) All cases specified in paragraph 13 must be assigned for trial to a judge by or under direction of the Resident Judge. The time at which the assignment is made is a matter for the discretion of the Resident Judge.
15. In cases which the Resident Judge is required to refer or decides to refer to a Presiding Judge, he/she should complete and sign a release form which, accompanied by a case summary; this should be sent promptly to a Presiding Judge.
16. Currently, different courts use different release forms. In future, all courts should try and use the same form. The form is attached as Annex A. Of particular importance when a release request is made are
- (a) a case summary - which can be very brief in a standard sort of case;
 - (b) a clear recommendation by the Resident Judge about the judges available to try the case, and
 - (c) any brief comments or reasons he/she thinks helpful.
17. The Resident Judge should ensure that Listing Officers are made aware of the contents and importance of this Guidance, and that Listing Officers develop satisfactory procedures for referral of cases to him/her and/or to a Presiding judge as appropriate.
18. This will take effect on 6 June 2005

26 May 2005

Lord Justice Thomas
Senior Presiding Judge of England and Wales

ANNEX A:

Crown Court at:	
Case Number:	
Date of Committal/Direct Transfer	
Committing Court:	
Initials of HEO/EO completing summary:	

REQUEST TO PRESIDING JUDGE FOR RELEASE/DIRECTIONS

Defendant[s]	Age	Bail or Custody	Offence[s] and Class of Case	Date[s] of Offence[s]	Likely plea	Estimated length of trial

	High Court Judge	Authorised Circuit Judge
Earliest possible listing dates	PCMH	PCMH
	Trial	Trial

PARTICULARS OF OFFENCE:
SEE ATTACHED SUMMARY

RESIDENT JUDGE'S RECOMMENDATIONS:

1. PCMH /Trial to be heard by a High Court Judge
2. PCMH/Trial releasable to HH Judge (name)
3. PCMH/Trial releasable to a Class 1 (murder) Judge, to be assigned by the Resident Judge
4. PCMH/Trial releasable to a Class I attempted murder Judge, to be assigned by the Resident Judge
5. PCMH Trial releasable to a Judge or Recorder authorised for Class 2 cases, to be assigned by the Resident Judge
6. PCMH/Trial releasable to a Circuit Judge/Recorder, to be assigned by the Resident Judge

COMMENTS:

JUDGE: (name) (date)

PRESIDING JUDGE'S DECISION:	Judge Assigned by Resident Judge
1. PCMH/Trial to be heard by a High Court Judge	
2. PCMH/Trial releasable to HH Judge (name)	
3. PCMH/Trial releasable to a Class 1 murder/ attempted murder Judge	
4. PCMH/Trial releasable to a Judge/Recorder authorised to try Class 2	
5. PCMH/Trial releasable to a Circuit Judge/Recorder	

JUDGE: DATE:

CASE SUMMARY - REFERRAL TO PRESIDING JUDGE

REGINA -v-

CASE NO:

Particulars of Offence(s)