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**To Presiding Judges, Resident Judges and Chairmen of Area Judicial Fora**

## **The New Criminal Procedure Rules, Timeliness and Pre-Trial Reviews**

This is the second of the three letters I am writing in the course of a few days in relation to the administration of criminal justice; this one deals with the Criminal Case Management Forms, timeliness and pre-trial reviews.

### **Criminal Case Management Forms**

The case management forms (issued as Annex E to the Practice Direction handed down by the Lord Chief Justice on 22 March 2005) have now been introduced across the country. I am asking for regular reports on what is happening; the first indications are promising.

#### *Variations*

There are Areas where local variations of the form are proposed. Although the forms, and the guidance notes which accompany them, make provision for further orders to be added as and when necessary, and the Practice Direction acknowledges that there needs to be flexibility in how the forms are used, variations should not go further than this. The form was always intended to be a national standard form and this intention must be followed. Local variations from the old standard PDH form were permitted with the encouragement of the Deputy Chief Justice, and the late Lord Justice Kay, but only for the purpose of obtaining practical experience for the devising of a now uniform set of Rules and forms. Some of the obvious advantages of a standard form are:

1. Accessibility The provision of electronic forms, available on the HMCS website, makes them easily accessible to all who need them. In addition, the HMCS website currently provides "eDocuments", which allow the form to be adapted to fit the number of defendants, witnesses and exhibits, and, in the case of the PCMH form, irrelevant parts to be deleted. But this is only practicable if there is only one form used nationally. The forms can be found on the HMCS website: <http://www.hmcs-courtservice.gov.uk/HMCSCourtFinder/FormFinder.do> (Select "Criminal case management" from the list of Work Types and press Find Form.)

2. Amendments Alterations which need to be made to the form due to changes in the law or court practice can be made quickly and easily and, again, made available to all by means of the HMCS website. This will ensure that the forms used in all courts are up to date and that practices do not diverge further over time.
3. Training Court staff and practitioners (in particular, Case Progression Officers) will not need to learn new working practices when they move from one Area to another, and Magistrates' Courts will not need to use different forms or procedures when sending or committing cases to different Crown Courts; this will simplify training requirements. If courts develop their own forms, the day-to-day work of the prosecution and defence CPOs becomes much more difficult and time consuming
4. Transferability of cases and personnel A national standard form will make the transfer of a case from one court to another straightforward. A single set of questions, with which practitioners will become familiar, will encourage proper timely preparation for hearings.
5. Other IT projects Work is progressing on the proposed national introduction of case progression software. This will enable the Crown Court CPOs, the defence, prosecution, and other agencies to check on the progress of the case, along the lines of the experiment being undertaken in the Manchester Minshull Street Crown Court. Such a system will only work well if there is a large degree of standardisation across courts of the forms and procedures. Improvements are also planned for the Xhibit system, with a view to making the forms available electronically in court. This will minimise the amount of retyping which court staff have to do by providing data electronically to the case progression tool. These IT tools will bring improvements to case management but they do require a national standard form.

I regret to tell those of you who want to amend the forms to suit local conditions that this is not permissible. There will only be two exceptions to the national forms:

- Very small variations have been permitted to the form used at the Old Bailey, in view of the fact that it is the only court which has an exclusive Class I case load; a standard form incorporating these changes will be made available.
- On a temporary basis only, the form in use in Manchester has been modified to allow it to be used with the experimental IT Case Progression System; the use of this form will cease as soon as the experiment ceases.

#### *The review of the forms*

Although the new case management forms came into being after a great deal of consultation, and represent a distillation of best practice from different courts, experience has clearly shown that changes are needed.

I am very grateful to those of you who have made suggestions to me and to the Criminal Procedure Rule Committee. The Committee intends to conduct its first review and republication of the forms in the autumn. If you have suggestions or comments which you would like the Committee to consider, I would be grateful if you could send these by **9 September 2005** to the Legal Secretary to the Lord Chief Justice, Kay Taylor, at the Lord Chief Justice's Office ([taylork@hmcourts-service.gsi.gov.uk](mailto:taylork@hmcourts-service.gsi.gov.uk).)

## **Timeliness**

Several people have expressed concern to me about timeliness under the new Rules. There is no reason at all why cases should not come to trial as quickly as they have done in the past. Indeed, I would very much hope that timeliness can be improved each year. In the Q&As sent by me in April 2005, I summarised the requirements in this way:

“The Practice Direction states that Magistrates’ Courts should order a PCMH within about 14 weeks after sending for trial where a defendant is in custody and within about 17 weeks after sending for trial where a defendant is on bail.”

I have added emphasis to the word “within”, as the period is a maximum – not a standard, and certainly not a minimum. As I pointed out:

“It is, of course, important to ensure that all parties will be ready to deal with all the issues raised at the PCMH in order to reduce the need for any further case management hearings. However, if a Resident Judge is content that the agencies and professions locally can be ready to conduct PCMHs earlier, it is within the judge’s discretion to ask that PCMHs be listed earlier, provided that such PCMHs are effective. The word ‘within’ was inserted into the time limits in order to ensure Resident Judges have this discretion.

If the Resident Judge wishes to make the time limits shorter, he may well need to amend some of the standard directions.”

In Areas where good timeliness has been achieved, I see no reason why there should be any deterioration in the times at which trials are held in any Court. Courts will, of course, have to review the timings provided in the automatic directions to ensure that they are not in conflict with achieving the current timeliness.

## **Preliminary hearings**

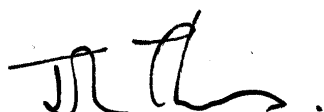
At present there is a difference of view as to the need for and efficacy of preliminary hearings. This is an issue needs further discussion in due course.

## **Pre-trial reviews**

Several courts are continuing to hold pre-trial readiness hearings or reviews after the PCMH on a regular basis in most cases. The clear intention of the Rules is to obviate the need for such hearings, save where there is a specific reason for them. Orders made prior to the PCMH and after the PCMH are to be monitored by the Case Progression Office and readiness for trial checked by him or her, or certified by the parties. It should be unnecessary for court time to be used for either of these as a matter of general practice.

Of course there will need to be a change in culture; prompt hearings must be held if orders are not complied with or certificates of readiness not produced on the due date. I hope, however, that the need for such hearings and for pre-trial readiness hearings on a regular basis will diminish as the prosecution and the defence accept that observing the Rules and complying with Orders should occur as a matter of course and should not require a court hearing.

HMCS are copying this letter to The Chief Magistrate, Chairmen of Benches, Justices’ Clerks, Area Directors and Court Managers for their information.

A handwritten signature in black ink, appearing to be 'JLH' followed by a flourish and a period.