

WOOLWICH CROWN COURT LISTING PILOT 2020

Briefing Paper

Any efficient system of listing cases must seek to make the most effective use of court resources. Warned lists seek to achieve that at the moment by ensuring that there is a reservoir of cases ready to come in at short notice when fixtures finish or crack. The system is justifiably criticised for failing to consider the needs of witnesses and for creating uncertainty for advocates. Witnesses are expected to put their lives on hold for a fortnight with no guarantee of the case being heard. Advocates are denied effective case ownership since they cannot have confidence they will be available to do the case when it is called on. The judicial experience is that warned list cases are particularly prone to delays or adjournments through unpreparedness. No-one on this Circuit has yet proposed a workable alternative. We are going to run a trial seeking to provide greater certainty to all parties. It will require additional effort from advocates and from the court staff and judiciary.

The pilot scheme set out here has been through a process of soft consultation with representatives of the CBA, CPS, LCCSA, local listing and admin staff and others. It has the encouragement of the SPJ. It is proposed that it should run for up to 12 months in the first instance. It is proposed that there should be monthly monitoring by a project board (membership to be decided) and that we should monitor stakeholders' views, probably by holding regular focus groups. The project board will also report to the L.I.T and the Presiding Judges on the analysis of quantitative information on trial effectiveness data, cracked trial data, witness waiting times etc.

If it works, the hope is that greater certainty should encourage case ownership and may help to drive down the number of delayed starts, late cracks and ineffective trials that are some of the drawbacks of the present system. Quite apart from that it is hoped that the scheme will be one that places greater priority on the needs of the participants without sacrificing efficiency. The risk is that despite everyone's efforts courtrooms may lie empty from time to time. An overall assessment of the effectiveness of the scheme will require a balanced view.

What we are proposing is outlined below. Like the Isleworth/Harrow scheme, this is a work in progress and very much open to and liable to be changed as experience and evidence requires. We hope you will support the scheme and help to refine and improve it. All constructive suggestions will be gratefully received.

Christopher Kinch

Resident Judge

Woolwich Listing Pilot 2020

1. At the PTPH the judge will initiate a discussion of the expected length of the trial until jury retirement. Advocates will be expected to have obtained or been provided with sufficient information to provide reasoned and robust estimates given the early stage of proceedings. They will also need to have dates to avoid for trial advocates and witnesses for 6 months ahead. The judge may enquire as to the extent of the instructed advocate's existing commitment to the case and/or the defendant. Trial advocates' email and phone contact details must be provided on the PTPH form.
2. Following the discussion, the case will be identified as suitable for listing as a "first tier" fixture (i.e. a fixture in PTPH terms) or as a floating fixture. Fixtures will continue to be given a fixed date to start the trial, usually on a Monday. Floating fixtures will be allocated to a two week "at risk" window at the PTPH with the aim of identifying a fixed date to be determined within 7 days of the certificates of trial readiness being lodged.
3. The judge will fix as first tier fixtures:
 - a. Any case likely to last 4 days or more
 - b. Any trial of a sexual offence
 - c. Any case where there are young or vulnerable witnesses
4. The judge will *consider* fixing as first tier fixtures shorter cases where:
 - a. There are experts or a significant number of witnesses and a need for timetabling
 - b. Instructed advocate(s) have already invested time and effort in preparation or significant time and effort is required to prepare the case efficiently
 - c. Cases where the advocate is required to be on a specialist panel.
5. A case not identified as falling into any of the categories justifying a "first tier" fixture will now become a "floating fixture." These cases will initially face an "at risk" window of 1-2 weeks. Provided the parties fulfil their obligations under the scheme, the court will commit to providing a firm date for trial as soon as possible after the COTR stage.
6. In order to assist the allocation of floating fixtures the Judge will seek further information at the PTPH. For example, a case likely to last no more than 1-2 days where the prosecution case is largely or entirely undisputed: e.g. some

offensive weapon cases or possession of false documents may be suitable to be listed as a backer on the first day of the trial window.

7. Any developments that are likely to have a significant impact on time estimates should be reported to Case Progression Officer at Crown Court as soon as possible: e.g. addition of new defendant, additional charges, substantial NFE, simplification of issues etc.
8. At the stage of COTR, the instructed advocate in any case will be expected to inform the CPO by email.
 - a. Whether the case remains contested and if so whether any revision is required to the time estimate.
 - b. Whether the O.I.C. and/or witness support (or the defence solicitor in the case of the defence advocate) has confirmed that all witnesses have **confirmed** availability and arrangements are in place for them to attend.
 - c. Whether there are any matters of law of disclosure that might delay the swearing of a jury at or shortly after 10 a.m. on the date fixed for trial.
9. In the case of a “first-tier” fixture, if a judge has been nominated to try the case, the CPO should inform the parties if the judge has any reserved case or other commitments that might affect the length of the trial. The revised time estimate will be regarded as firm.
10. A provisional fixed date will then be allocated to floating fixtures within the trial window. Less priority may be accorded to counsel’s availability at this stage since there is room for a timely return. The expectation will be that cases can and should be returned if necessary at this point. There can be no guarantee of a 10 a.m. start but every effort will be made to get the case on.
11. Any case where the necessary information is not provided at COTR stage will be referred to a judge and may have to be listed for mention.
12. The success or failure of the scheme will need to be monitored. Advocates, litigators, CPS, Police, witness service and staff will be invited to provide information on how the scheme is working, the additional work involved and any significant problems as the weeks go by.

Woolwich Judges