



# HM Courts & Tribunals Service

## London Magistrates' Courts

### Early Starter Process for Custodies

#### **March 2021**

During 2020 many practices and processes in the judicial system had to change due to the COVID 19 pandemic.

Bromley and Croydon Magistrates' Courts were two of the few Magistrates Courts in London that ran Virtual Courts for custody overnight cases, and although problematic at times, it did reduce the number of prisoners physically produced in our cell suites.

The pandemic meant that we had to make further urgent changes across London, to reduce footfall in our court buildings and effectively keep those still attending our court buildings safe and secure, but still delivering Justice.

The introduction of CVP (Court Video Platform) meant that very much like the virtual courts, we could hear overnight prisoners remotely from police stations at all of our court buildings, and gave the Prosecution and Defence Advocates the opportunity to attend remotely rather than attend physically, thus continuing to reduce footfall.

Unfortunately, back in December 2020, the Police could no longer support financially and resourcefully the Video Remote Hearing (VRH) aspect of CVP, which meant that prisoners were to be physically produced before the court.

We identified which courts this would impact immensely and tried to make changes to accommodate, such as, changing the listings framework for Bexley Magistrates' Court so as they could hear overnights and therefore reduce the workload at Bromley, Stratford Magistrates Court taking overnights on a Monday and Friday from Thames Magistrates' Court and Ealing being the overflow overnight court for Uxbridge Magistrates Court.

Even though we put additional measures in place, the custodies appeared to increase somewhat, and we have had many occasions where prisoners are being held back at police stations pending cells being available, as the custody prisoner volumes have exceeded our cell capacity in some courthouses. This meant that prisoners have not been produced from police custody in compliance with Section 46 of the Police and Criminal Evidence Act (PACE)

We realised that we could no longer sustain this and therefore some form of action had to be introduced. This is when we thought about introducing an Early Starter Process for Overnight Custodies.

### Early Starter Process for Overnight Custodies

These meetings were first introduced in January 2021 and those in attendance have consisted of representatives from; HMCTS Admin, Police, CPS, and Serco (PEC's).

What we are trying to achieve in this process is nothing different to what we currently do when possible, but this time with more structure.

All parties will play a part in ensuring that this process is effective, and the outcome will be positive, as the expectation is that custody overnight prisoners will be before a courtroom on the day of charge rather than being held back at police stations overnight.

## The Process

HMCTS Admin staff based at Westminster and Highbury Magistrates' Courts (Listings Centralised Hubs) will be available from 8am to identify from the list which is provided by the PLO and Serco, if we have any prisoners at a particular courthouse that exceeds the cell capacity of that courthouse.

If the answer is yes, again using the details provided from the PLO and Serco, HMCTS Admin with the support of Legal, if necessary, will consider which prisoners will remain at the courthouse they are due to attend and which prisoners to transfer to a courthouse that has available cell capacity.

There will be exceptions that need to be considered. We would not transfer;

- Youths and Females
- Prisoners who have an Interpreter booked
- Co- defendants
- Breach of Bail or Breach of DVPO offences
- Another suggestion was Murder and Attempted Murder

It is imperative that HMCTS Admin receive as much information as possible from the PLO and Serco lists, so as an informed decision can be made as early as possible. Details also required from the Police are, Solicitors email / telephone details, so as early contact can be made prior to Solicitors leaving home. It is understood that in time, PLO's and Serco will have access to the digital PTR (Prisoner Transport Record) system.

Immediately a decision is made, HMCTS Admin will;

- Email the Serco Control Base advising them of the change of location of the prisoner. PLO's and PEC's Leads, Nick Dyer and Craig White to be copied in.
- Email is sent to the generic South and North London CPS addresses as well as the Advocacy DCP's. (Details have been provided)
- Libra will be amended to reflect the change in the court location.
- Contact will be made with Solicitors via email or telephone advising them of the change in location of their client.

## Other considerations

When dealing with cases that have been transferred from another courthouse, committal paths must still be followed for the area in which that case originated from.

We must also bear in mind that if a prisoner is remanded in custody, they will go to the calendar prison for the courthouse that their case was heard in and not the calendar prison of the courthouse they would have initially attended.

## GO LIVE

It has been agreed between all parties that this Early Starter Process for Overnight Custodies will go live from the **8<sup>th</sup> March 2021**.

This gives all parties the opportunity to digest and prepare in advance.

A meeting will re-convene on the 7<sup>th</sup> April 2021 to discuss the effectiveness of the first month of this process and tweak or change where and if necessary.

## Expected Outcome

Quote from the Criminal Practice Directions

***A defendant who has been kept in police detention after being charged with an offence must be brought before a magistrates' court as soon as practicable and in any event no later than the first subsequent court sitting: section 46 of the Police and Criminal Evidence Act 1984***

There will be no prisoners being held back at Police Stations.