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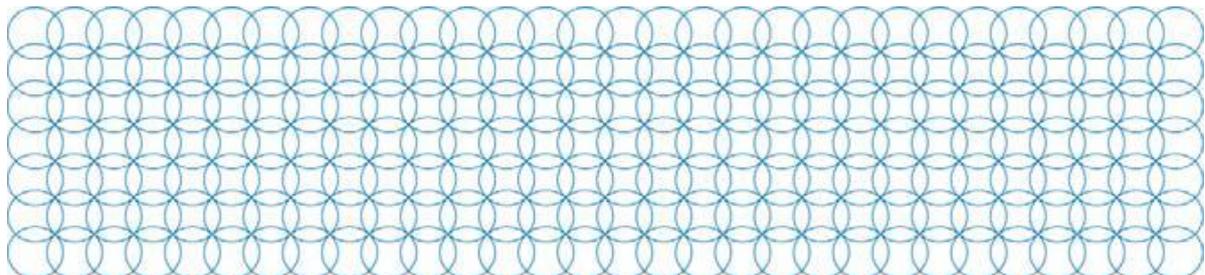


HM Courts &
Tribunals Service

Consultation on the listing of criminal proceedings in the Magistrates' Courts in Merseyside

Responses to the consultation undertaken on behalf of the Cheshire and Merseyside Judicial Business Group which concluded on the 22 September 2017.

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1. Introduction

- 1.1 A consultation paper dealing with the listing of criminal proceedings in Merseyside was issued on the 25 August 2017.
- 1.2 This paper outlines the proposals consulted on, a summary of the responses received, the decision reached and the next steps in the process.

2. The Consultation

- 2.1 The consultation was undertaken on behalf of the **Cheshire and Merseyside Judicial Business Group (JBG)** in relation to the listing of criminal proceedings in Merseyside. The consultation concluded on the 22 September 2017.
- 2.2 The JBG is responsible for ensuring that there are appropriate arrangements in place for the conduct of the judicial business of the area and **HM Courts and Tribunal Service (HMCTS)** is responsible for ensuring the efficient and effective administration of justice.
- 2.3 Earlier this year the JBG commissioned work to be done to look at options for listing of the Courts work. Several problem-solving meetings were held and included several representatives from Court Users and other stakeholders.
- 2.4 Participants included **Merseyside Police, Crown Prosecution Service (CPS), Defence Advocates, Probation, Geo Amey, Prisoner Escort Custody Service (PECS), Witness Service, Magistrates** and **District Judges** and others. Following these meetings, a series of recommendations were put before the JBG who approved a consultation. This document outlines various proposals for listing the work across the Local Justice Area.
- 2.5 The consultation paper sought the opinion of those interested in the listing of criminal proceedings particularly in relation to the listing of:
 - Listing of overnight custody cases;
 - Listing of Domestic Violence trials;
 - Listing of anticipated guilty and anticipated not guilty cases
- 2.6 In relation to each type of proceedings, responses were welcomed to several questions. A list of those consulted is at **Annex A** and those responding at **Annex B**.

3. Summary of Responses

The **JBG** met on 6 October 2017 and considered the responses received.

The consultation generated 35 separate responses:

Individual Justice of the Peace (JPs): 28
Merseyside Bench Leadership Team: 1
Prisoner Escort Custody Service (PECS): 1
Geo Amey: 1
Probation Service: 1
Crown Prosecution Service (CPS): 1
Merseyside Police: 1
Member of the administration on behalf of the team at the Wirral: 1

Of the 28 JP responses, 11 of those directly cross-referenced the Bench Leadership response and added their support to that response.

The other responses for the magistrates were individual responses.

Dealing with each question posed in turn, a summary of the responses received is follows:

3.1 Listing of Overnight Custody Cases

Questions:

- 1. Do you agree that the current arrangements for custody courts need to change to make more effective use of available remand court sessions?*
- 2. Do you agree that Sefton custody cases should be heard in Liverpool?*
- 3. Do you have any observations about Wirral custody cases being relocated at some point in the future?*

Responses:

Of the 35 responses to these questions, 8 of the JP responses supported the changes outlined. Additionally, the staff response and the CPS response also supported these changes

One JP response specifically answered the questions in the negative.

The Bench Leadership response (supported by 11 separate JP responses) answered the first question – yes, but did not support Q2 and the move of Sefton’s work into QEII.

Similarly, they did not support future changes in respect of the Wirral custody work-their response suggested combining Wirral and Sefton overnight cases together and listing these cases on an alternating pattern between the two sites thereby maintaining magistrate’s exposure to remand work while ensuring a sufficient number of custody cases were listed together.

The Crown Prosecution Service supported the proposition by responding: *“there are significantly less remand cases being processed through Sefton and Wirral courts than*

the QE11. The CPS would support a review of current listings of remand cases as there are potential savings to be made in the deployment of prosecutor resources.”

Other comments in respect of these questions included:

“I would envisage that there could be capacity problems with cells and prison vans arriving at QE11.”

“Only if there was the capacity, although this could lead to the de-skilling of Magistrates unable to travel to Liverpool.”

“Reducing capacity i.e. available cells does not make sense as it would only create a bottleneck in the QE11.”

“The CPS would support the closure of both Wirral and Sefton remand courts at the same time. We would anticipate that in undertaking this change, we would see a significant saving in court time, leading to a reduction in resourcing for both the CPS and HMCTS”.

“Not being as familiar with the Wirral court as I am with the other 2 courts, although, I do occasionally sit at the Wirral court and have some limited appreciation of the building, from what I have seen, sadly I would have to pose the question is the Wirral court building still fit for purpose.”

3.2 Domestic Abuse/Violence trials

Questions:

- 4. Do you support domestic abuse/violence trials being heard before specialist courts in Liverpool thereby creating a Specialist Domestic Violence Court (SDVC) for the County of Merseyside?*
- 5. In order to accommodate the additional business which type of none DV trial work would best lend itself to being moved **out**?*

Four responses answered the first question in respect of DV cases in the affirmative.

Six answered it in the negative.

The other respondents did not specifically answer the individual question but were captured within in a general response.

Comments from the magistrates included:

“Whilst we understand why first hearings, Remands and Domestic Violence Protection Orders are held in one location, given the limited number of specialist Prosecutors and Police Officers assigned to the courts, we believe DV Trials are different.

Victims and witnesses, who are often reluctant to appear, will be even more so, should DV Trials be centralised at the QE11 in Liverpool, as they will more than likely have to travel at the same time as Defendants, often by the same mode of transport.”

“My understanding is that the majority of Magistrates have or will have completed the DV training this year so in theory all should be able to sit on a DV panel. If this were to happen in all Merseyside Courts then surely defendants, victims and witnesses would have to wait less time”

“We agree that DV trials could remain in Liverpool if the capacity in this site is sufficient. However, we note that CPS have raised concerns in the past with person(s) not willing to travel to their home courts where the travelling is reduced to give evidence, so would ask has this been taken into consideration from a customer perspective.”

“Yes, however there isn’t the capacity, and my colleagues on the DV panel frequently tell me that their DV business is often cancelled/eroded/rescheduled and the specific purpose for which they attended that sit, subsequently changed to other matters, making them quite rusty when it comes to dealing with DV matters.”

“Yes. The CPS would support this as it would facilitate the deployment of specialist prosecutors to a single court centre. We have considered the impact on victims and witnesses and are satisfied that the geography of Merseyside is such that there would not be a significant increase in travel times as a result of this proposal. We would welcome the utilisation of the facilities to support achieving best evidence that are readily available at the QE11.”

3.3 First listings in GAP and NGAP courts

Questions:

6. Do you agree that the principles under Transforming Summary Justice (TSJ) and related initiatives should underpin the way in which Guilty Anticipated Plea (GAP) and Not Guilty Anticipated Plea (NGAP) courts are listed?

7. Do you agree that brigaded GAP and NGAP courts should be listed in Sefton and Wirral?

There were eleven responses to question 6 above, all of which were affirmative.

The Bench Leadership Team response made the following observation:

“Magistrates would certainly welcome the adherence by all stakeholders to the principles of TSJ, with for example: the early receipt of the Initial Details of the Prosecution Case, the right personnel at the hearing, streamlined disclosure, and quality assured police files. We believe courts should start on time, with magistrates briefed beforehand by the Legal Adviser, all parties present in court, including where necessary the defendant, and all Probation Reports and Previous Conviction histories available, dependant on the case. Only when the TSJ principles are fully complied with, will court sessions become more efficient and then the brigading of more work may make sense.

We understand the need to have GAP and NGAP courts running back to back in any listing pattern: if defendants change their plea on the day of the hearing when they have been listed in an NGAP slot, then the case may be moved to the GAP court and dealt with swiftly. If changes of plea occur following negotiations with the Crown Prosecution Service to a lesser charge, this can only happen if the Prosecutor has the authority to do so: back to back GAP and NGAP courts would allow this, although magistrates would respectfully ask that it be done before the court session starts wherever possible, for the efficient management of court time. Similarly, NGAP courts need robust case management, led by the Legal Adviser and bench chairman, and will only be effective if the Prosecutor/Court Associate knows in advance whether CCTV evidence will be relied on, whether a Special Measures Application is necessary and can be heard at that hearing, or if a Bad Character Application is likely to be raised by the Defence.”

Many of the responses from the JPs supported these comments.

CPS responses to these questions were:

The current listings schedules are not fully TSJ compliant and this is affecting the county's TSJ performance. The CPS would welcome consistent parallel listing of GAP and NGAP courts in line with the requirements of the TSJ characteristics. The CPS would welcome the proposal set out at 5.5 above and request that consideration be given to listing on alternate weeks for NGAPs at Sefton and Wirral, with weekly full day courts for GAP work.

4. General observations

4.1 Several respondents took the opportunity to make general comments rather than specifically answer the questions posed.

4.2 The response from **PECs** was generally supportive of any attempt to improve efficiency yet reminded the JBG of the need to consider:

- *The need to use video links whilst not detrimentally impacting on those cases in custody.*
- *Delaying dealing with those cases results in late returns to prison establishments.*
- *The number of docks available at a site needs to be considered.*
- *Any changes to demand from the Courts requires advanced notification to PECs.*
- *Use of secure docks needs to be maximised.*
- *Cases in custody need to be prioritised in terms of listings and on the day calling of cases.*
- *The impact of Disability Discrimination Act/Equality issues needs to be borne in mind.*

Cell capacity was highlighted by **PECs**.

4.3 The response from **Merseyside Police** supported all the recommendations and options and suggested any changes should be subject to a review after 6 months to ensure the benefits were being seen. In respect of the issues affecting court users around travelling to various locations they made the following observation:

“The provision of specialist DV staff at a single location could only enhance the service. There may be some opposition to the transport and confidence issue for victims, however the closure of Knowsley and St Helens Magistrates Court has had little effect on witness attendance rates. There may also be an opportunity to provide wrap around service for victims at some point in the future if a single location is provided.”

5. Conclusion and next steps

The JBG have made the following recommendations in respect of listings.

5.1 Listing of overnight custody case

All overnight custody cases from the Sefton Court but excluding all the cases listed in the Complex Cases Court are to be accommodated in Liverpool QEII.

The number of Sefton overnight custody cases are such that the QEII can accommodate these cases.

Retaining the Complex Cases Court custody cases maintains a presence of GeoAmey staff at Sefton ensuring the remaining business at that Court can deal with cases where a custodial sentence may be imposed.

The JBG does not support the further transfer of Wirral's custody cases. If this issue is to be considered again at any time in the future it must be subject of a further detailed consultation.

By not making any changes to Wirral custody listing, the current contingency arrangements whereby Wirral will accommodate additional custody cases if the cell capacity at the QEII is reached can be maintained.

5.2 Listing of Domestic Violence trials

The JBG wish to create a full single specialist domestic violence court for the County and therefore all DV trials will be listed in Liverpool at the QEII.

Many of the responses from the magistrates raised concerns about the expectation they should sit at courts across the County and the JBG understands that certain individuals will have good reasons for being unable to do so.

However, the County benefits from a single Local Justice Area and it has a Countywide Bench with a number of magistrates regularly sitting at more than one centre with excellent transport links in and out of the city of Liverpool.

The benefits of specialising are well known (e.g. greater knowledge of the sentence of the impacts of DV, ownership and drive of case management, etc.) in respect of domestic violence courts. Furthermore, over the last three years all JPs have been invited to attend a specific DV training course.

5.3 Listing of anticipated guilty and anticipated not guilty cases

The majority of respondents all agreed the principles of listing TSJ cases in a brigaded GAP and NGAP Court should be achieved. Additionally, the listings of trials need to be in a timely fashion. Balancing these issues with Court capacity, resources, other agencies resources and the needs of witnesses and victims poses real challenges for the JBG.

In order to achieve TSJ principles and create more trial capacity, the following has been decided:

- To accommodate the volume of cases alongside the principles of TSJ the JBG have decided that for **Sefton Courthouse** there will be 1 x GAP court (all day) per week. There will be 1 x NGAP court (all day) per fortnight listed alongside the GAP court.
- In the **Wirral** there will be 1x GAP (all day) and 1 x NGAP (all day) court each week listed side by side.
- In **Liverpool** there will be 3 x GAP (all day) and 2 x NGAP (all day) courts listed per week.
- Each court will be listed in accordance with the TSJ principles, therefore the GAP listed will be capped at 30 per day and the NGAP lists at 15 per day.
- There will need to be a discussion with the CPS, National Probation Service (NPS) and legal Aid Agency (LAA) to arrange the optimum days in the week to accommodate this decision.
- These courts are the minimum number required to accommodate the numbers of these types of cases based upon the last twelve months workload. These Courts need to be listed alongside the existing number of trial courts listed across the county. The JBG recognises this will require additional resources from the CPS and HMCTS in particular and potentially other court users. However, the principles underlying TSJ should see a reduction in due course of the number of trials listed, which may in the future enable a review of those courts.

Other decisions:

In reviewing the responses and considering the various matters the JBG have also decided that:

Magistrates Sittings

The JBG supports the Lord Chancellor's expectations that whenever possible JPs should be on a rota for a sitting day.

As things develop magistrates are encouraged to sit at any and all of the court houses in the County.

The JBG appreciates this is not always possible for a variety of reasons but does encourage all the magistracy to embrace these principles.

Voluntary Surrenders or Attendances

The JBG were concerned about the impact "voluntary surrenders" were having on the day to day business of the Court. Where a defendant fails to attend a hearing and an arrest warrant is issued for his/her arrest there are occasions where the individual turns up a day or two later.

Wherever possible the Court will accommodate this voluntary surrender and endeavour to have the matter listed and consider hearing the case. However, this creates a great deal of re-work for the Courts, CPS and other parties.

As a result, the JBG are recommending that these cases should be considered by the Court after the conclusion of the cases listed for that particular day. The parties involved must expect the matter will not be reached ahead of cases that have already been listed in the

Court and ordinarily this may not be before 4 pm on the day but should the Court complete its listed work earlier, the matter may be considered.

By implementing this approach, the Court will maintain a control over the daily list. Cases in the scheduled list will take priority while maintaining and ensuring that those who voluntarily surrender to the Court have the opportunity to have their matter considered on that day, but at a time later in the day.

Reducing Trial Delays

Across the County the Courts have access to an electronic diary system for the booking of trials and currently these are set up separately at each Court house. This makes it more difficult to list directly from the Courtroom across the County.

On occasions, the delays in one court can be much lesser than another. The JBG recommends to HMCTS that they look to set up a countywide diary system to enable the court to access all available court time across the County from the courtroom.

When fixing trials the court should look to fix the earliest date possible immaterial of which building that may be in. In respect of all cases the Court must consider the ability of the parties to access any one of the court houses across the County prior to fixing a trial. This greater flexibility to list trial matters will reduce delays and will also enable work to be shared across the estate, e.g. road traffic trials from the Wirral, or non-CPS trials from Liverpool.

Single Justice Procedure

The JBG fully supports the use of the Single Justice Procedure and recommends to HMCTS to widen and extend its use across a greater number of case sand prosecutors.

This work, which is for summary only non-imprisonable cases can then be dealt with outside of a courtroom by a single justice. This will increase the capacity in the Courtroom for other matters. HMCTS needs to work with partner agencies e.g. local authorities, to use SJP for case such as dog fouling, littering, non-payment of travel fares etc.

All the above changes to listings should be implemented by the 1st April 2018.

The JBG wish to review these changes after 6 months to establish whether improvements in performance and efficiency have occurred after implementation.

List of Persons, Groups or Organisations Consulted

- All Merseyside Magistrates
- Members of the Cheshire-Merseyside Judicial Business Group
- The Magistrates' Association Representatives
- District Judge Clancy, District Judge Lloyd, District Judge Shaw (Magistrates' Courts) based in Merseyside
- HMCTS North West Region Delivery Director
- HMCTS Head of Crime
- HMCTS Cheshire-Merseyside Senior Management Team
- The Lord Lieutenant of Merseyside
- Mr Justice Turner, Senior Presiding Judge on the Northern Circuit
- Mr Justice William Davis, Presiding Judge on the Northern Circuit
- His Honour Judge Goldstone QC, Recorder of Liverpool
- The Chief Constable of Merseyside Police Force
- The Police and Crime Commissioner for Merseyside
- Chief Crown Prosecutor for Merseyside
- Crown Prosecution Service Representatives
- Merseyside Probation Service
- PECS Contract Manager (NOMS)
- GeoAmey
- Legal Aid Agency
- Defence Practitioners (via Legal Aid Agency)
- PCS Trade Union
- Liverpool Law Society
- Victim Support
- Citizens Advice, Witness Service
- Merseyside Criminal Justice Board

List of Respondents

- Peter Ashworth, Merseyside JP
- Keith Bates, Merseyside JP
- Mary Belcham, Merseyside JP
- Peter Bingham, Merseyside JP
- John Birch, Merseyside JP
- Enid Charlton, Merseyside JP
- Glenys Chiselle, Merseyside JP
- Ghislaine Fletcher, Merseyside JP
- Susie Haggstrom, Merseyside JP
- Dr N Harding, Merseyside JP
- Philip Howley, Merseyside JP
- Jane Krause, Cheshire JP and Chair of the JTAAAC Committee
- Brian Locke, Merseyside JP
- Dan Longman, Merseyside JP
- Sheila Malone, Merseyside JP
- Ian Mathison, Merseyside JP
- Ian Matthews, Merseyside JP
- Marion McNally, Merseyside JP
- Brian O'Connell, Merseyside JP
- David Orbison, Merseyside JP
- Christine Parry, Merseyside JP
- Ronald Plinston, Merseyside JP
- Don Price, Merseyside JP
- Sue Quinn, Merseyside JP
- Peter Sanders, Merseyside JP
- Diane Shepherd, Merseyside JP
- David Tasker, Merseyside JP
- Richard Weare, Merseyside JP
- Merseyside Bench Leadership Team, on behalf of the Merseyside Magistrates
- Sonya Kirk, Delivery Manager, on behalf of administrative staff at Wirral Magistrates' Court
- Alison Bevan, Contract Delivery Manager, Prisoner Escort and Custody Services
- Mohammed Farooq, Head of Stakeholder Engagement, NOMS
- Siobhan Blake, Chief Crown Prosecutor, Crown Prosecution Service
- Assistant Chief Constable Cooke, Merseyside Police
- GeoAmey