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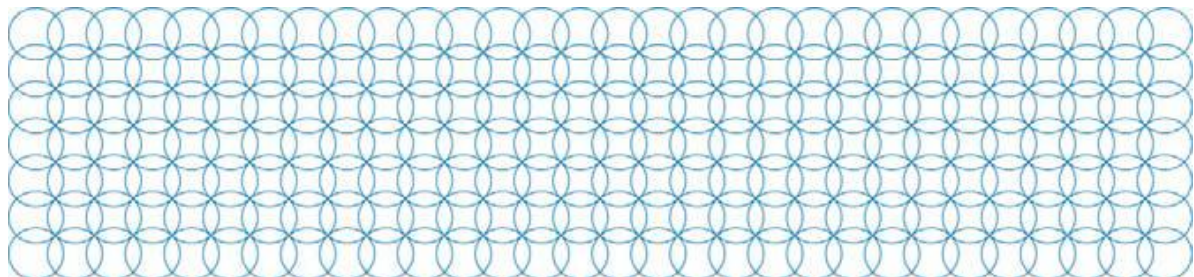


HM Courts &  
Tribunals Service

# Consultation on the listing of criminal proceedings in the Magistrates' Courts in Cheshire

**Responses to the consultation undertaken on behalf of the Cheshire and Merseyside Judicial Business Group which concluded on the 19 September 2017.**

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## 1. Introduction

- 1.1. A consultation paper dealing with the listing of criminal proceedings in Cheshire was issued on the 22 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 Cheshire. The consultation concluded on the 19 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 **Cheshire Police, Crown Prosecution Service (CPS), Defence Advocates, Probation, Geo Amey, Prisoner Escort Contract 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 domestic abuse/violence courts;
  - Listing of trial courts in Chester and Crewe courthouses;
  - 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 13 separate responses:

Individual Justice of the Peace (JPs): 6  
Magistrates Association Branch: 1  
Prisoner Escort Contract Service (PECS): 1  
Geo Amey: 1  
Defence solicitor: 1  
Crown Prosecution Service (CPS): 1  
Witness Service: 1  
Legal Adviser: 1

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

#### 3.1 Listing of Domestic Violence/Abuse cases

*Questions:*

- 1. Do you support domestic abuse/violence cases being heard before specialist courts?*
- 2. Do you support the proposal to centralise the listing of preliminary hearings in domestic violence cases at a centralised venue in Chester and Crewe on an alternating pattern?*
- 3. Do you support the proposal to cluster all preliminary hearings and sentencing hearings in the local court?*
- 4. If you do not support centralisation how would you wish such case to be listed?*

There were 13 responses to these questions of which six supported a Specialist Domestic Violence Court (SDVC) in principle, one was opposed and six gave no direct response.

Three supported centralised listings to some degree or other and two did not support any form of centralisation.

If centralised, three respondents supported all preliminary and sentencing hearings being in one location.

Those who did not support specialised centralised courts at all indicated their opposition rests with the travel situation for witnesses and defendants, and the lack of opportunity for all magistrates to deal with this type of case

The **Crown Prosecution Service** fully supported the proposition for a SDVC and supported a specific location, fixed for the County.

The response from one of the local defence solicitors opposed any form of brigading of DV work into a centralised Court considering the potential travel defendants would have to make if on bail.

The responses from Magistrates and the Magistrates Association did not support centralisation of the work for similar reasons save for one JP who was in favour of centralising this work.

Most of the responses *did* refer to travel time, and travel difficulties from around the County.

Additionally, the magistrates were concerned about the impact of listings changes on the type and variety of caseload those magistrates who could not travel around the county might end up having to deal with.

This was felt by some respondents to have a direct impact upon their competence as a magistrate.

### 3.2 Trial Courts

*Questions:*

5. *Do you accept that the current waiting time for trials and the proportion of trials lost for lack of court time in Cheshire are unacceptable and that the current arrangements do not meet the needs of witnesses, victims or defendants for an early resolution of prosecutions?*
6. *Do you support the adoption of a trial centre model for dealing with trials in Chester and Crewe as explained?*
7. *As a result do you support the alternating remand listings at these two courthouses?*
8. *If no to the above three questions, what proposal would you suggest to increase trial efficiency within existing resources and planned session*

Six responses answered the first question above in the affirmative and no other responses to this question was received by the other respondents.

Comments from the magistrates included *“this has been the case for far too long”*, and *“trial delays are currently embarrassingly too long and any action to reduce them is welcome”*

In respect of using a trial centre model at Chester and Crewe six of the responses supported this approach.

The CPS indicated they welcome any measures to reduce delays, but raised concerns that witnesses may be required to travel greater distances depending on how the cases were listed.

They also raised a question over the effective management of cases at each site now and the opportunity to use video links more to lessen the need to travel. One response was against the proposal indicating *“the delays are a resourcing issue and the problems should not be resolved by penalising those we serve.”*

In respect of any alternating listing of remand work four responses supported this proposal and one opposed it. A comment in support indicated *“that magistrates do and can routinely sit in Chester and Crewe courthouses. The only concern might be the travel of witnesses but this should be borne in mind when fixing trial dates.”*

The JP who opposed this indicated *“NO, greater burdens on travel and cost.”*

In response to question 8 above, one respondent JP commented *“the efficiency of existing resources is the answer...things are not carried out in an efficient manner. Delays are often caused by poor performance and administration of those bringing prosecutions. The interests of justice are not being served by poor performance”.*

### 3.3 TSJ and listings of GAP and NGAP courts

Questions:

9. *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?*

10. *Do you agree that brigaded GAP and NGAP courts should be listed in accordance with the plan outlined above?*

Four respondents directly answered this question in the affirmative and two gave a response in the affirmative with the caveat that travel time and impact needs to be considered.

Five responses answered the second question above in the affirmative with comments like *“the proposal seems sensible”, “this would increase efficiency.”*

## 4. General observations

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

The response from **PECs** was generally supportive of any attempt to improve efficiency but 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.*
- *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. Chester cell capacity is a maximum of 18 whilst Crewe's cells can hold a maximum of nine and case type/ defendant mix can reduce flexibility in the cells and impact upon numbers being held.

As Chester has the greater number of cells and capacity, PECs preference would be for all custody cases for Chester and Crewe to be listed at Chester as a contingency plan would be needed if Crewe ends up over capacity.

To alleviate the potential for problems PECs supports a greater use of the Video Enabled Court (VEC) links between the Police custody suites and court houses.

Earlier completion of those cases in custody in the working day is essential for PECs and they support earlier listing of all custody cases.

PECs are concerned that to have any staff based at a court house when there is no custody work expected is not a sensible use of resources. PECs invited further discussions after any decisions are made and that those decisions should be subject to a review period.

The response from the Legal Adviser raised various concerns which included questions over additional travel time for defendants to attend any centralised hearings or cases listed under an alternative pattern, potential for more people to fail to attend court and concern over the transportation of prisoners over a greater distance.

## **5. Conclusion and next steps**

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

### **5.1 Listing of Domestic Violence/Abuse cases**

All first-time overnight custody and bail cases flagged as DV will be listed in a single location.

This work will be brigaded into a court hearing at Chester Courthouse.

The JBG are aware of other counties which have successfully used this approach to DV work e.g. Greater Manchester has recently moved to this way of listing and with the appropriate level of support from the CPS, Police, Probation and solicitors they have seen an increase in the guilty plea rate at first hearing and a reduction in avoidable adjournments. Merseyside has similarly been listing matters in this way for some time.

The level of support at these Courts with a dedicated specialist CPS lawyer, Police support staff presence in the building and an increased use of on the day pre-sentence reports have ensured DV cases are dealt with speedily.

The JBG do recognise the concerns raised by some of the respondent in respect of travel time around the County.

However, Chester is the County Town and has good bus and rail links with Warrington, Crewe and other parts of the County.

Any cases that require a trial will be listed at a Court House taking into account the needs of all the parties including witnesses.



## 5.2 Trial Courts

To introduce a trial centre model for dealing with trials in Chester and Crewe overnight cases for both areas would need to be brought together in one of the buildings each day. There was concern over cell capacity in both courthouses. Crewe has a limited capacity and Chester will in future be dealing with DV cases for the county. There was a real risk of having to regularly resort to contingency arrangements for cases to be heard elsewhere.

Notwithstanding PEC's concerns about basing staff at a courthouse where there is no custody work expected, it was decided that, as a matter of principle, the ability of the judiciary to send a person immediately to a manned cell facility must not be diminished. Effectively limiting the judiciary's powers for reasons of support service efficiency is not acceptable. As this is a matter of principle, it is not appropriate to enter into any trial period.

In respect of trial Courts the proposal to list alternate weeks between Chester and Crewe is **not** supported by the JBG.

## 5.3 TSJ and listings of GAP and NGAP courts

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:

- All NGAP courts wherever listed will be scheduled for a full day with a cap of 15 cases listed.
- 1 x NGAP court per week in **Warrington** and **Chester** and 1x NGAP Court per fortnight in **Crewe**.
- All GAP Courts wherever listed will be scheduled for all day with a cap of 30 cases. This is subject to the volumes of work in each building.
- At **Warrington** the GAP courts will be listed as one full day and one half day each week
- At **Chester** the GAP Court will be listed on one full day and one half day a week.
- At **Crewe** the GAP Court will be listed on one day a week.

To support the listing of GAP and NGAP work in this way at Chester and Crewe overnight cases (excluding DV cases) will be brought together in one courthouse on two days a week.

## 5.4 Other decisions

**In reviewing the responses and considering the various matter 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.

In light of this, 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 such an 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 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.

#### 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 1<sup>st</sup> April 2018.**

**The JBG wish to review these changes after 6 months to ensure improvements in performance and efficiency have occurred.**

**List of Persons, Groups or Organisations Consulted**

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

**List of Respondents**

- Moira Chapman, Cheshire JP
- William Garnett, Cheshire JP and Deputy Chair of the Cheshire Advisory Committee
- David Griffith, Cheshire JP
- Jane Krause, Cheshire JP and Chair of the JTAAAC Committee
- Jane Miller, Cheshire JP
- David Pearce JP, on behalf of the Cheshire Branch of the Magistrates' Association
- Mary Radcliffe, Cheshire JP and Advisory Committee Representative
- Siobhan Blake, Chief Crown Prosecutor, Crown Prosecution Service
- Karen Roach, on behalf of Jones Robertson Solicitors
- Roland Moore, Area Manager, Citizens Advice, Witness Services
- Melissa Chamberlain, Cheshire Legal Adviser
- Alison Bevan, Prisoner Escort and Custody Services
- GeoAmey