**THE CROWN COURT AT ISLEWORTH**

# The Plan for Autumn 2020

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## The Plan for trials

1. This document is intended to provide information for court users and other interested parties on the plan for an increase in jury trial provision at Isleworth during the autumn of 2020. It must, of course, be subject to any change in Government guidance.
2. The headnote is that we intend to list for 4 trial courts from mid-September and 6-7 courts from October 2020. Initially we will focus on custody cases past custody time limits but are alive to other aspects of priority and the need to use the trial capacity as intensively as possible.
3. Since the w/c 6th July 2020 we have been sitting 2 trial courts at 2m social distancing with each trial court needing two additional courtrooms to serve respectively as public gallery courts and jury retirement areas.
4. Planning has taken place towards utilising more courts for trials on 1m+. The + element being the removal of fixed jury seating and provision of Perspex screens between jurors and sometimes elsewhere on the model developed in Leeds. By this means we expect to be able to sit Courts 7-13 as trial courts. Additional screens and furniture will allow us to use jury rooms 1-6.
5. The courts and jury rooms were measured up for screening on 29th July and the anticipated lead-in time for delivery of screens is 3-4 weeks. Some new furnishings and plinths will need to be installed.
6. The plan is to list for four trial courts from mid-September and to increase that to 6-7 trial courts from October. If it proves possible to bring that timetable forward, we will seek to do so.
7. We anticipate that it will be possible to hold trials of up to 3 defendants in Courts 8 and 11 (and possibly others depending on sight lines) and up to 4 and possibly 5 defendants in Court 7.
8. There are limitations on capacity for instance:
	1. It will be better to keep footfall low and spread through the day;
	2. The cells are presently limited to accommodating 10 produced prisoners per day although that is being reviewed. They can have up to four professional visits at a time and this is now supplemented with a telephone conference facility;
	3. The jury lounge area can accommodate around 50 persons at one time;
	4. Socially distanced trials require higher staffing levels and, like any organisation during Covid 19, staffing is an issue.
9. For these reasons:
	1. We will need to explore staggered start times and lunch breaks for trials (perhaps ½ hour either way), and for serving jurors to be directed straight to jury rooms rather than remain in the lounge areas. This is NOT the same as the extended hours pilot at Snaresbrook. We will seek the co-operation of advocates and others to achieve this.
	2. Depending on the numbers of prisoners for trial it may be necessary to list a proportion of bail cases;
	3. Anything you can do to ensure that the trial runs within time estimate will help everyone.
	4. With multi-defendant trials we will explore the possibility that prisoners by consent attend the trial remotely (except when giving evidence) but this is dependent on increased video facilities in prisons;
	5. Public gallery space will be limited, and users of the public galleries may be asked to wear masks in court.

## Listing of Trials

1. Listing is ultimately a judicial function. The outstanding cases have been reviewed by the Resident Judge with the assistance of the listing officer and fellow judges, focussing first on those where defendants are in custody, and initially on those whose PTPH preceded the suspension of jury trials.
2. From mid-August parties will receive notice of PROVISIONAL listings of their cases as A FIRST STEP starting with the cases of those whose PTPH preceded the suspension of jury trials and whose cases we expect to list before Christmas.
3. We seek the assistance of parties to respond to these provisional listings within 7 days so that we can take account of any priority issues you wish to bring to our attention, availability of witnesses, defendant and advocates, special provisions required, and information about case readiness so that we can then seek to adjust the provisional listing accordingly. The timetable is short because the re-listing process is complex and we need that information to confirm listings so that everyone knows where they are. If we don’t get it, we may not be able to hold the provisional date or allocate an early other date. We will ask parties to confirm an existing Certificate of Readiness or provide an updated one and also to respond to a proforma to assist in providing the information. We will aim to provide a firm listing within a further 7 days.
4. A copy of the proforma will be distributed with this Plan for information but parties will receive a copy when notified of the provisional listing date and will be asked to return it BY EMAIL with “TRIAL LISTING” in the subject line within 7 days of receiving the provisional listing.
5. It will be really helpful when considering the form if parties can engage before returning it to try to iron out apparent difficulties. That way we can hope to allocate trial dates in as many cases as possible without need for a hearing.
6. We will need to list so as to use the available trial courts as intensively as possible. It follows that your help in ensuring that trials are effective and ready will be more important than ever. We aim to continue the Isleworth approach of giving fixed dates rather than using a warned list but that makes it doubly important that advocates focus on realistic time estimates and that the trial is conducted within them.
7. In many instances we will list a PTR and we encourage personal attendance so that advocates are clear about the arrangements in court including how special measures are to be accomplished.
8. Please note that remote attendance by a witness to a trial requires an application under CrimPR 18 to be made by the calling party IN ADVANCE and for that to provide details of the proposed link and arrangements at the far end. Any application that a civilian witness give evidence from eg home requires careful consideration and a full application IN ADVANCE. It is for the party calling the witness to make those arrangements.
9. Advocates are required to attend trials in person unless a live link direction had been obtained in advance.
10. Inevitably we must prioritise cases where defendants are awaiting trials in custody. Most, if not all, bail cases have a trial listing and we are all too conscious how far into the future those extend. We intend to review those to see which can be brought forward. Parties are encouraged to use the listing information proforma to alert us to cases that they feel ought to be prioritised.
11. Returned proformas will be uploaded by the court to the DCS Trial section and will therefore be visible to all parties.

## Personal Attendance at non-trial Hearings

1. Isleworth hopes to continue with a flexible approach to personal and remote attendance of advocates for non-trial and non-sentence hearings. This can only continue if those who are attending remotely are able to participate effectively, and so that the hearings are as engaged and fair as hearings attended in person.
2. In general advocates have been attending when that is clearly beneficial and making use of remote attendance when that is appropriate but there have been issues that, now the first phase of Covid 19 has passed, we have needed to address. We also acknowledge that on occasion advocates have been asked to attend in person when that could have been avoided. It is inevitable that there will be glitches.
3. Particular difficulties arise if the defendant appears in person and the defence advocate appears remotely and we ask you to bear in mind that the court does not have facilities for video conferences between defendants present at court and advocates attending remotely., either before or after the sentence.
4. For remote hearings we acknowledge that the court systems have had to be improved but we are now finding that the majority of technical issues impacting on hearings are at the end of the advocates or interpreters and due either to issues with their computers or with their wifi. Please bear in mind:
	1. Listing remote hearings (including any hearing when even one participant is appearing remotely) is more complex that hearings for personal attendance,
	2. Where hearings are timetabled because at least one party is appearing remotely we lose any flexibility to cope with situations such as a defendant arriving late or the need to take further instructions. We do need to work to reliable time estimates and are reliant on proper pre-hearing engagement if this is to work.
	3. We have noted that in cases with 4 or more defendants, remote attendance is of limited effectiveness and may list those for personal attendance by both prosecution and defence.
5. We have consulted with representatives of the bar and solicitors and are grateful for their input. We will move to the following approach. **This is always subject to a formal live link application for any participant under CrimPR 18 made in advance of the hearing.**

### Plea and Trial Preparation Hearings

1. At Isleworth we will, in the short term, continue with the policy of adjourning the first PTPH for 14 days (custody) and 28 days (bail) with administrative directions. In the present difficulties we have found that has given more time for consideration and engagement.
2. **Defendant attending remotely from custody:** Remote attendance by advocates is the norm but advocates are welcome to attend in person. Please ensure that there is appropriate engagement prior to the hearing. We are conscious of the difficulties in organising conferences with clients.
3. **Defendant in custody being produced OR on bail:**
	1. **Bail defendants** are expected to attend in person. Some **prisoners** will be produced – either because personal attendance is required or because video capacity is limited.
	2. **Defence advocates** are expected to attend in person so as to engage with their clients. They may attend remotely BUT ONLY if they have had all necessary conferences, firm NG pleas are anticipated, taken proper steps to engage with the prosecution, completed the PTPH form in advance, and have adequate wifi to connect reliably.
	3. **Prosecution advocates** may attend remotely BUT ONLY if they have taken proper steps to engage with the defence and have adequate Wi-Fi to connect reliably.
	4. **Interpreters** are expected to attend in person.

### Sentence Hearings

1. **Defendant attending remotely from custody:** In general advocates may attend remotely if they have adequate Wi-Fi to connect reliably and arrangements are in place for any relevant video materials to be played as part of the sentence hearing UNLESS a direction has been given requiring attendance in person.
2. **Defendant being produced in custody OR attending on bail:**
	1. Bail defendants are required to attend in person. Some prisoners will be produced – either because personal attendance is required or because video capacity is limited.
	2. Defence advocates are required to attend in person so as to engage with their clients unless they have applied for and been granted a live link direction in advance specific to the sentence hearing. Applications may be made by email with “for the attention of the duty judge” in the subject line no later than 3 working days[[1]](#footnote-1) before the hearing. In assessing the interests of justice test the judge will expect the application to confirm that prior to the hearing the advocate will have had an effective conference with their client, that all written materials such as references will be uploaded to the DCS and that arrangements are in place to provide post sentence advice, and that they have adequate WI-FI to connect reliably.
	3. Prosecution advocates may attend remotely BUT ONLY if they have adequate WI-FI to connect reliably and arrangements are in place for any relevant video materials to be played as part of the sentence hearing. Our experience is that if video needs to be played with the prosecutor starting and stopping it and pointing out certain features then the prosecutor needs to be present in the courtroom. Likewise, we require personal attendance in sentence hearings where there are four or more defendants.
	4. Interpreters are expected to attend in person.
3. **Newton Hearings:**
	1. These will be subject to direction when it is identified that the hearing is required. We would expect personal attendance by defendants, advocates and witnesses unless Live link directions are made in advance of the hearing.

## Cells conferences

1. Isleworth cells can currently manage up to four face to face conferences at a time in socially distanced conditions.
2. In addition, a telephone conference facility is available to assist advocates in the building. Advocates should telephone the cells to ask if the phone is available and if so, the phone will be given to the prisoner and the advocate will be given the number to call. Please observe fair usage principles and two rules:
	1. Make the call from a place where you cannot be overheard;
	2. The facility is limited to professional legal advisers and you must not give the number (or lend your phone) to others such as family members to have a social call.

## Video conferences with Prisoners

1. We are informed that within a week or so an additional 7 video end points will be commissioned at HMP Wormwood Scrubs. That will bring them up from 6 (+1 for Probation) to 14 (+1 for probation).
2. This is part of a program for E&W that should bring the total number of video end points in the prison estate up from 450 to over 900 by end March 2021.

## Time Estimates

1. Where even one of the participants is attending remotely the hearing has to be carefully timetabled. It follows that time estimates are more important than ever before. If unrealistic time estimates are given it may not be possible to complete the hearing, so we ask everyone to give careful thought to them and if the estimate needs to be revised to inform the court as soon as possible.

## DCS Side Notes

1. Isleworth is trialling a method for organising DCS side notes using a “snooker sheet” as the first document on the file. You will spot is as a brightly coloured document in the cases on which it has been loaded. Please attach your widely shared notes to the coloured section appropriate to your role.
2. Please bear in mind that posting a widely shares comment may be seen when a participant access the case but it does not amount to service and any application

## Section 28 pre-recorded cross-examination

1. Court users will be aware that a commencement order is expected to be made on 24th August 2020 authorising the use of s.28 YJCEA in London Courts. This has the potential to apply to qualifying cases with PTPH’s from that day
2. The terms of the commencement order will determine what are qualifying cases but it is expected to be limited to cases where “the witness is eligible for assistance by virtue of section 16 of the Act(witnesses eligible for assistance on grounds of age or incapacity).”
3. Actually going live with s.28 at Isleworth will be dependent on there being in place effective digital support and staffing.

*HHJ Edmunds QC*

*Resident Judge – 12th August 2020*

1. We acknowledge that the need to produce a prisoner rather than for them to appear remotely may be notified late and less than 3 days before the hearing. In such circumstances a good reason for remote attendance will suffice provided that the hearing can be effective. [↑](#footnote-ref-1)