



JUDICIARY OF  
ENGLAND AND WALES

## “Recovery” in the Greater Manchester Crown Courts

There are three strands to the Greater Manchester recovery strategy:

- i) Ringfencing the “backlog” cases so that at the date BCM is re-set the backlog becomes an identifiable body of work to be managed intensively, particularly by judicial ownership and reviewing of cases.
- ii) Re-setting and reinvigorating BCM across the whole of Greater Manchester, effective from Monday 5 July.
- iii) A joint approach to listing (and to the deployment of resources, including judicial resources, generally) across the Greater Manchester Crown Courts, including the Nightingale courts.

The joint approach to listing and to the deployment of resources has been in place for some months. The joint approach to listing and close co-operation in the deployment of resources will continue, and in terms of implementing the recovery strategy this strand requires no preparatory work.

### **Ringfencing the “backlog” and “new” work.**

A court disposing of all bail cases sent for trial within six months of receipt, and all custody cases sent for trial within the span of an initial custody time limit, would not be considered to have anything that could properly be described as a backlog.

The identification of a “backlog” of cases serves two purposes in the recovery strategy. First, it allows there to be active case management of an identified body of work – this active case

management will involve ownership of cases by judges and engagement with the CPS and defence community with a view to the earliest possible disposal of all the backlog cases.

Second, the identification and ringfencing of a backlog allows “new” work to be treated differently, rather than just being added to the work on a court’s books with new work in effect becoming part of a backlog. The aim of the recovery strategy will be to deal with all new work in a timely manner so that no “backlog” will exist at all of the new cases, whilst at the same time the ringfenced backlog cases will be actively managed down to zero.

### **i) Ringfencing the backlog.**

As from Tuesday 1 June all cases sent for trial in Greater Manchester will be given a PTPH date 35 days from sending. These cases will therefore begin to be listed in our Crown Courts for PTPH during and from w/c 5 July. The ringfenced “backlog” cases will be all of those cases which have had a PTPH hearing on or before Friday 2 July 2021 in which NG pleas have been entered. Cases committed for sentence and appeals will not be included in the ringfenced backlog and the management of such cases will be unaltered. In effect, a line will be drawn as at the close of business on Friday 2 July and all outstanding cases involving NG pleas, and therefore all cases at that point awaiting trial will be ringfenced.

The intention is that the backlog cases will be actively managed towards the earliest possible disposal. Active management of cases will involve judicial intervention, but how this is achieved will, because of differing case-loads, case mix and judicial resources, necessarily vary as between individual courts. Active management will though involve judges giving directions and communicating with the parties and if necessary having cases listed for case management hearings. Trial dates may be brought forward if listing a case for trial offered the possibility of early disposal. Judges will review and manage cases as they consider appropriate.

### **ii) Re-invigorating BCM.**

Part of the reason for drawing a line under backlog cases is to allow a fresh start with new work. At present partly, but by no means exclusively, because of the Covid crisis, compliance with BCM

principles and rules is very far from satisfactory. Cases in which there is anywhere near full compliance with BCM are the exception, the purpose of re-invigorating BCM is to make full compliance the rule, not the exception.

Although often characterised in terms of efficiency, BCM principles are intended to ensure that the highest possible standards are maintained in the conduct of criminal proceedings.

Maintaining those high standards allows work to be conducted efficiently and timeously. The fact is that unless BCM principles are rigorously adhered to then cases will not be dealt with within reasonable timescales. The intention in re-booting BCM is to ensure that new work is dealt with within the timescales BCM envisages so that as the ringfenced backlog work diminishes and eventually disappears Greater Manchester's Crown Courts will be left without anything that could accurately be described as a backlog.

With very limited exceptions, criminal charges originate from decisions made by police officers and Crown Prosecutors. Guidance issued by the DPP, effective from 1 January 2021 (Charging (The Director's Guidance) - sixth edition, December 2020), specifically aligns charging decisions, file preparation, engagement and the provision of information, and matters such as case progression and management, with BCM principles and with the Criminal Procedure Rules and the Criminal Practice Direction. Further, the Attorney General's Guidelines on Disclosure 2020, if followed, should mean that disclosure does not lag behind and cause delay.

The Director's Guidance specifically acknowledges that:

*"The national framework for the efficient management of cases in both the Crown Court (BCM) and Magistrates' Court (TSJ) is now established. It is reflected in the relevant parts of the Criminal Procedure Rules and the Criminal Practice Direction which prescribe the evidential material and other information that the court expects to be available at the key stages of the case. This Guidance reflects and supports the court's case management framework."*

Moreover, compliance with the Guidance is mandatory:

*"Police officers and prosecutors **must** comply with this Guidance to ensure that charging and other prosecution decisions are both fair and consistent, and comply fully with PACE, the PACE Codes of Practice, and the Code for Crown Prosecutors ("the Code"). Failure to follow this Guidance may risk cases failing and decisions being subject to legal challenge."*

Whilst we have spoken of re-booting or re-invigorating of BCM, all that in fact is sought is adherence to the rules and the directions which underpin BCM. If there is compliance, then criminal cases sent to the Crown Court will be conducted to a high standard and efficient and timely disposal will be achieved. Adherence by the police and CPS to BCM time-scales and standards is only part of the picture, the defence community's participation in supporting and maintaining the required timeliness and high standards is also vital. Without a rigorous approach to achieving a culture of promptness and excellence in the management of cases "recovery" will be jeopardised.

It is to be emphasised that preparation for PTPH hearings begins at the sending stage, engagement at sending and in the weeks before PTPH is vitally important and the extended time between sending and PTPH is intended to ensure that pivotal material is provided, conferences with clients are arranged and there is full engagement between the parties.

### **Reviewing by Judges**

Just as with the backlog cases, active management of "new" cases will involve judicial intervention, but how this is achieved will, because of differing case-loads, case mix and judicial resources, necessarily vary as between individual courts. As far as is possible in individual Crown Courts, the intention is to brigade all PTPH's as from 5 July in to one courtroom with no other work being listed before that judge that week. On the Monday of the week before (so, for the PTPH's listed in w/c 5 July, on Monday 28 June) the judge due to take the PTPH court the following week will be given the names and T numbers of all the PTPH's for the following week and will review those cases. In reviewing, the allocated judge will be checking for readiness for PTPH, but will be pro-active in doing so and will communicate with the parties about any aspect of a case which requires attention. In particular, judges will be looking for:

- Evidence of engagement
- The uploaded BCM form from the sending hearing
- Case summaries – usually MG5's - which accurately, fully and fairly reflect the evidence
- What evidence has been provided/uploaded to DCS
- Whether pivotal evidence has been provided in time to allow instructions to be taken

- Whether, if important evidence is missing, such has been chased on behalf of defendants
- Considered, concise and lawful indictments
- Dialogue between the parties regarding potential pleas
- Indications of what the real issues will be in a contested case
- Explanations for any significant delay

In any case in which acceptable guilty pleas are expected such will need to be indicated on DCS as soon before PTPH as is possible and not less than 7 days before PTPH (if not indicated on the BCM form at sending) and any basis for plea will need to be uploaded.

As well as checking for PTPH readiness and giving directions and raising queries about this, the reviewing judge will, where appropriate, intervene to assist achieving early resolution of cases.

HH Judge Nicholas Dean Q.C.

HH Judge John Potter

HH Judge Martin Walsh

8 June 2021